



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

Ref No: HRDA/North/UP/08/09/2020

September 18, 2020

To,
Mr. C.S Mawri
Focal Point - Human Rights Defenders & Assistant Registrar,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action–Uttar Pradesh: Illegal house arrest of poet Mr. Munawwar Rana, his daughter and WHRD Ms. Sumaiya Rana and social activist Ms. Uzma Parveen, by the Uttar Pradesh Police.

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are writing to express our grave concern regarding misuse of law and powers by the UP Police to illegally subject HRD and poet Mr. Munawwar Rana, his daughter and WHRD Ms. Sumaiya Rana, and WHRD Ms. Uzma Parveen to house arrest for up to four days.

Source of Information:

- Communication with HRDs
- Communication with the HRDA North Regional Coordinator
- Media Reports

Date of Incident:

September 07, 2020

Place of Incident:

- Ms. Sumaiya Rana's home, Kesar Bagh, Lucknow
- Mr. Munawwar Rana's home, Hussain Ganj, Lucknow
- Ms. Uzma Parveen's home, Haider Ganj, Lucknow

The Perpetrators:

- Police Personnel of Uttar Pradesh Police, Lucknow, Uttar Pradesh
- Police Personnel of Kesar Bagh Police Station, Kesar Bagh, Lucknow
- Police Personnel of Women Police Station, Hazratganj, Lucknow
- District Administration Lucknow, Uttar Pradesh

About the Human Rights Defenders:

- Mr. Munawwar Rana (67) is a notable poet who has been awarded the “**Sahitya Akademi**” Award for Urdu Literature in 2014. He has also raised issues of minority rights consistently in his work.
- Ms. Sumaiya Rana (40), the daughter of Mr. Munawwar Rana, is a social activist associated with many social organizations in Lucknow. She has been active in peaceful anti-CAA protests by women at Ghantaghar Lucknow.
- Ms. Uzma Parveen (26) is a social activist of Lucknow. She was awarded the City Corona Warrior Prize by the Municipal Commissioner of Lucknow for sanitizing 30 Temples, 25 Mosques, 5 Gurudwaras, and 62 areas during the Covid-19 lockdown. She has been also an active member of peaceful anti-CAA protest by women at Ghantaghar Lucknow.

Background of Incident:

In February 2020, when the anti-CAA protests were held at Ghantaghar in Lucknow, two of Mr. Rana's daughters as well as Ms. Parveen and 160 other women protestors were booked by the UP police. Ms. Parveen was also placed under house arrest on August 15, 2020, when she had planned to hoist the Indian flag at Ghantaghar, Lucknow. Ms. Rana has constantly received threatening messages on social media, about which she went to the Kesarbagh police station twice but the Station House Officer (SHO) did not register a complaint.

Details of the Incident:

On September 08, 2020, the three HRDs were planning to hold a peaceful protest on violence against women and unemployment with "*Thali and Taali*". The protest was to consist of citizens banging pots and clapping at 8:08 pm near the CM's residence to show their disapproval.

Ms. Uzma Parveen's home: On September 07, 2020, around 11 pm, Ms. Parveen saw 20-30 policemen in uniform standing in front of her home at Haider Ganj Lucknow. She went down and asked them the problem. The policemen gave no reply; they also refused to tell them which police station they were from; but two male policemen forcibly entered her home and started searching her home and balcony. There was no female policewoman with them and after finishing the search, they did not take anything but they stood outside her house all night.

The next morning, on September 08, 2020, a notice was given to Ms. Uzma by two policemen who came to her house. The notice was from the inspector in-charge of the Hazratganj police station and stated that they have received information via social media that a protest will take place at Gautam Palli and Hazratganj police station area by Ms. Parveen on September 08, 2020. However, Section 144 CrPC is applicable in Lucknow Commissionerate Area because of COVID-19 due to which social, political, religious programs, processions, rallies, demonstrations are prohibited till September 15, 2020. It also said that according to the Allahabad High Court's Lucknow Bench order, the Kanshiram Jansuvidha Complex and parking lot (Eco Garden) has been identified as a "*dharna pradarshan*" site by the Government. The policemen told Ms. Parveen that she cannot go anywhere outside her house and they had an order from their senior to not let her go anywhere. After keeping Ms. Parveen under house arrest for three days, the police, which by now included women police, left the area on September 09, 2020.

Ms. Sumaiya Rana's home: On September 07, 2020, around 11 pm, 30-40 uniformed policemen arrived at Ms. Rana's home at Kesar Bagh in Lucknow. Some stood in front of her house and others started searching her home, maid's room, balconies and stairs etc. without any notice. Ms. Rana's family including her children were at home. No women police was with them during the search. After searching her home but without taking anything, the policemen left and stood in front of her house all night. When Ms. Rana asked them why they stood there, the policemen replied that they had an order from their seniors not to let her step out from her house. The next morning on September 08, 2020, some policemen gave the same notice to Ms. Rana, which was

given to Ms. Parveen and after keeping her under house arrest for four days, the police personnel which included women police by now, left at 3 pm on September 10, 2020.

Mr. Munawwar Rana's home: On September 07, 2020, around 11 pm, 10-15 uniformed policemen reached Mr. Rana's home at Hussain Ganj Lucknow. His house was not searched, and no notice was served to him, but the policemen stood outside all the time. On September 09, the policemen left the area.

We believe that these house arrests are completely arbitrary, illegal and serious violation of constitutionally guaranteed personal liberty by the Uttar Pradesh police. Their purpose is to gag democratic dissent against the government. Completely contrary to the law, a forcible entry was made by the police in the night in houses of two women HRDs and an HRD who is a senior citizen. Further, the police had issued no prior search notice or any documentation. Such gross misconduct and acts at WHRDs' residences were in absence of any women police. No written orders were furnished to the HRDs confirming permission for such detentions ordered by a magistrate.

Furthermore, the Indian Constitution gives its citizens the right to peaceful protest. It's a breach of Article 19 (1) (a) of the Indian Constitution which guarantees to all its citizens the right to freedom of speech and expression. The Supreme Court in **Shreya Singhal v. State (2015)** had observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty & integrity of India, the security of the State, friendly relations with foreign States, and so on.

Article 21 of the Constitution ensures to all its citizen right to life – a life to live without fear, intimidation, harassment or mental torture. To stop citizens from moving out of their houses without any legal order is indeed a form of intimidation and mental torture and thus totally against the Constitution. Article 19 (1) (b) of the Constitution guarantees the right to peacefully assemble and it is evident that the acts of police restricting free movement of HRDs has resulted in barring exercise of this fundamental rights.

The illegal house arrest is also against international human rights laws. Article 19 of the Universal Declaration of Human Rights (UDHR) also proclaims the right to freedom of expression, which includes freedom “to seek, receive and impart information and idea through any medium regardless of frontiers”. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) sets forth the right to freedom of opinion, expression and information. Also, The Declaration on Human Rights Defenders, adopted in 1998 by the UN General Assembly states that governments are under a duty to “take all necessary measures to ensure the protection of human rights defenders by the competent authorities against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary actions” as a consequence of their efforts to promote human rights.

Therefore, the Indian government is bound by its international legal obligations to ensure that all activists and human rights defenders are provided with security against harassment or intimidation so that they may enjoy their constitutional right to due process, life and liberty under Article 21, and the right to freedom of speech and expression and peacefully assemble under Articles 19(1)(a) and (b) of the Constitution of India.

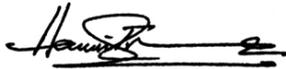
Appeal:

We would like to express our grave concern about the gross abuse and misuse of powers by district administration and police personnel of Uttar Pradesh police in Lucknow. The Hon'ble Commission should urgently:

- Direct its own investigation wing to conduct an immediate, independent, thorough, transparent, effective, and impartial investigation into the above-mentioned incident of forcible entry and house arrest of three respected HRDs (two of them being WHRDs) and citizens of Lucknow by the UP police and submit it to the NHRC within two weeks.
- Direct the Director General of Police to produce urgently to the Hon'ble Commission's investigation wing the names, duty records and registers of all detaining officers and Station In-Charge on duty in the Kesar Bagh police station and Women police station on the relevant dates, vehicular log registers, General Diaries, CCTV footages from the house or nearby houses of the HRDs for the relevant dates, order of magistrate if any.

- Based on an independent investigation, direct for appropriate legal and disciplinary proceedings against all concerned police personnel.
- Order the UP government to pay compensation to the HRDs Mr. Munnawar Rana, Ms. Summaiya Rana and Ms. Uzma Parveen and their families for the mental torture caused to them by the illegally and forcibly entering in their homes and illegally detaining them for up to four days.
- Ensure that social activists and human rights defenders in the state of Uttar Pradesh are allowed to carry out peaceful protests as per the fundamental rights enshrined in the Constitution.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath it.

(Henri Tiphagne)

National Working Secretary