



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To,
Mr CS 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 – Urgent Appeal for Action – Madhya Pradesh: Wrongful arrest, misuse of law, fabricated charges by MP police in arrest of stand-up comic Mr. Munawar Faruqui.

Greetings from Human Rights Defenders Alert!

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 the wrongful arrest of Mr. Munawar Faruqui under fabricated charges by the police officials of Tukoganj police station, Indore, Madhya Pradesh.

Source of Information:

- Information from HRDA West regional consultant
- Media reports

Date of Incident:

January 1, 2021

Place of Incident:

Indore, Madhya Pradesh

Perpetrators:

- Mr. Kamlesh Sharma, Inspector, officer in charge of Tukoganj police station
- Police personnel of Tukoganj police station, Indore
- Mr. Vijay Khatri, Superintendent of Police, Indore

About the Human Rights Defender:

Mr. Munawar Faruqui is a Mumbai based stand-up comic who regularly makes satirical and political jokes about the government and its policies during his stand-up shows.

Details of the Incident:

On January 1, 2021, Mr. Faruqui was performing at the Munroe café in Indore when a group of people led by Mr. Eklavya Singh Gaur, chief of group 'Hind Rakshak Sangathan' and son of BJP MLA, rushed to the stage, snatched the microphone and began saying "*hamare religious sentiments hurt hue hai... Godhra kaand per joke kiya... hamare devi devta ka mazak udaya... Islam pe joke kyon nahi karta hai.*" (Our religious sentiments have been hurt. You joked about Godhra. You made fun of our deities. Why don't you joke on Islam?). The group then assaulted Mr. Faruqui at the café; and filed a complaint at the Tukoganj police station.

An FIR No. 0002 was registered at 10.40 p.m. by Inspector Mr. Kamlesh Sharma, who was the officer in charge of the Tukoganj police station and Mr. Faruqui, Mr. Prakhar Vyas, Mr. Nalin Yadav, Mr. Pratik Vyas and Mr. Edwin Anthony, were all booked and arrested under IPC sections 295-A (deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs), section 269 (unlawful or negligent act likely to spread the infection of any disease dangerous to life), 298 (deliberate intent to wound the religious feelings of any person through words), 188 (Disobedience to order duly promulgated by public servant. and 34 (acts by many people with a common intent). Mr. Mahendra Pratap, assistant sub-inspector, was made the investigating officer of the case.

The FIR stated that as soon as the show started, around 4.30 p.m., crass jokes were made on Hindu gods Ganesh, Karthik and Shiv. They also made lewd remarks on the women in the audience. Condoms were shown during the show, which had minor kids. It further states that the stand-up act was part of a conspiracy to upset the peace in the city. However, a member of the audience wrote on social media that "no derogatory remarks were made by Munawar Faruqui at the Indore show." On January 2, 2021, Mr. Sadakat Khan the co-organiser of the event, not named in the initial FIR, was also arrested.

On January 13, 2021, the SP of Indore, Mr. Vijay Khari admitted to the media that there was no video evidence against Mr. Faruqui of ever having insulted Hindu deities, but justified his arrest despite no wrong doing having taken place. Since the last four weeks, Mr. Faruqui and his associates are in jail with their bail denied thrice till now, only to be granted by the Supreme Court today on February 5, 2021.

The Supreme Court while granting bail to Mr. Faruqui observed that the law laid down by the Supreme Court in its 2014 judgment in *Arnesh Kumar v. State of Bihar* was not followed and procedure under Section 41 of Code of Criminal Procedure (CrPC) was not complied with.

We strongly believe that the arrest of Mr. Faruqui is a political act and a misuse of the law by the Indore police. Arresting a comic for his speech is an attack on the fundamental right to speech and expression guaranteed by Article 19 of the Constitution of India.

It has not been proved that Mr. Faruqui indeed made such remarks to begin with. A media report has stated that the police had only had the complainant's claim that the complainant had overheard certain jokes during rehearsal which he claimed Mr. Faruqui was going to perform. Other media reports have stated that the complainant overheard the comedians making the jokes during rehearsal and not during the show, which contradicts the claim and allegations in the FIR. The superintendent of police Mr Vijay Khatri has already told a news outlet that they didn't have any video evidence to claim that any deities had been made fun of. Despite police officials claiming to not have evidence in the media, Mr. Faruqui and his associates are still charged under a fake and fabricated charges.

Further, since the mob led by Mr. Eklavya Gaur assaulted Mr. Munawar Faruqui before his arrest, why was no police complaint filed against them and why were they not arrested? What arrest procedures were followed when Mr. Faruqui and his associates were taken to the police station? Why was the comic arrested without any investigation into the complaint by the Indore police?

How are statements under section 161 of this CrPC were made by Eklavya Singh Gaud (complainant), and Kunal, Shubehndra and Palash (the witnesses) verbatim copies of each other, barring the first line of Eklavya's statement, raising concerns over their credibility? Why did the police not take statement of any other members of the public? All these questions raise serious concerns over the credibility of the Indore police.

Appeal:

We believe that this is a politically motivated and fabricated case with a complete violation of the fundamental rights of Freedom of Speech and Expression. Further, the strong observations by the Supreme Court prove that laws pertaining to arrest were not followed which led to detention and deprivation of fundamental rights for over a month.

We urge the Hon'ble Commission to:

- Following the observations made by the Supreme Court on violation of laws regarding arrest, direct the Chief Secretary of Madhya Pradesh to provide adequate compensation to Mr. Munawar Faruqui and his associates.
- Following the observations made by the Supreme Court on violation of laws regarding arrest, direct the Director General of Police of Madhya Pradesh, to initiate legal proceedings against personnel of Tukoganj police station, Indore.
- Recommend the Director General of Police of Madhya Pradesh to transfer the case to another police station since it is evident following the Supreme Court observations that the police of the Tukoganj police station misused provisions of law to arbitrarily arrest Mr. Munawar Faruqui and his associates.
- Direct the Chief Secretary of Madhya Pradesh to ensure that compliance with international human rights laws and the Universal Declaration of Human Rights is followed by state police officers.

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary