



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

March 30, 2022

To,
Mr. Indrajeet Kumar,
Focal Point - Human Rights Defenders & Deputy 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: Fabricated charges, Illegal arrest and brutal custodial torture of journalist Mr. Gaurav Bansal in Agra.

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 journalist Mr. Gaurav Bansal who was illegally arrested on fabricated charges and tortured by Uttar Pradesh police for reporting on election malpractices.

Source of Information:

- Communication with the HRDA North Regional Consultant
- Communication with local HRDs
- Media Reports

Date of Incident:

March 15, 2022

Place of Incident:

Etmaddulah Police Station, Agra, Uttar Pradesh

The Perpetrators:

- Police personnel of Etmaddulah police station, Agra, Uttar Pradesh
- Mr. Devendra Singh, Sub-Inspector and in-charge Mandi police station, Agra
- Mr. Mubeen Khan, Constable, Mandi police station, Agra
- Mr. Ratnesh, Constable, Mandi police station, Agra

- Mr. Navalkant, Constable, Mandi Thana, Agra

About the Human Rights Defender:

Mr. Gaurav Bansal (32) is a journalist working with the Hindi newspaper *Punjab Kesari*. He reports on administration and politics in Uttar Pradesh. At the time of Covid pandemic, he reported on the rigging of oximeters and failure of local administration.

Background of the Incident:

On March 8, 2022, while voting for the assembly election was underway at a polling station near Mandi Thana in Agra, there was an uproar over rumours that electronic voting machines (EVMs) were being replaced. It was followed by arguments between people and police. Mr. Gaurav Bansal reached the counting centre to report on this incident.

Details of the Incident:

On March 9, 2022, at 11:25 am, an FIR (number 0144) was registered against Mr. Bansal and 10-15 unknown persons by Sub-Inspector Mr. Devendra Singh at Etmaddulah police station, allegedly for obstructing a public servant from discharging his duty. The FIR was filed under sections of IPC **147- Punishment for rioting**, IPC **149- Every member of unlawful assembly guilty of offence committed in prosecution of common object**, IPC **332- Voluntarily causing hurt to deter public servant from his duty**, IPC **353- Assault or criminal force to deter public servant from discharge of his duty**, IPC **504- Intentional insult with intent to provoke breach of the peace** and **Section 7 of the Criminal Law Amendment Act: molesting a person to prejudice of employment or business**.

Constable Mubeen Khan, constable Ratnesh, constable Navalkant, all from Mandi Thana P.S, Agra were mentioned in the FIR as accompanying SI Devendra Singh.

On March 15, 2022, at around 01:00 AM, 30-40 policemen (some uniformed and some without uniforms) reached Mr. Bansal's house at Ajeet Market, Kamla Nagar, Agra, in seven police vehicles/jeeps. They verbally abused Mr. Bansal in his house and forcibly abducted him, put him in the police jeep and took him to the Etmaddulah police station, Agra. Mr. Bansal was abused and threatened in the jeep, en route to the police station.

After being brought to the Etmaddulah police station, he was tortured and beaten mercilessly multiple times throughout night, including by a policewoman. He was also verbally abused and forced to stay awake the entire night. The police also took his car in custody.

In the morning of March 16, 2022, he was produced before a judicial magistrate. Mr. Bansal broke down before the magistrate and narrated the torture. However, he was sent to judicial custody in Agra district jail. On March 22, 2022, Mr. Bansal was released on bail.

After his arrest, the police issued a press release saying that on March 8-9, 2022, an attempt was made by the accused Mr. Bansal to disturb peace by obstructing government work and behaving indecently with the on-duty policemen. Cases were registered in this regard at Etmaddulah police station and Mr. Bansal, was arrested on March 15, 2022, and sent to jail.

On March 21, 2022, **The Editors Guild of India** condemned Mr. Bansal's arrest by issuing a statement that they were shocked at the manner in which he was arrested and allegedly tortured for reporting on electoral malpractices in the recent assembly elections. They also demanded that an independent court-monitored inquiry be conducted to investigate the charge of torture by the police and that he be released immediately.

HRDA believes that Mr. Bansal faced fabricated charges, abuses and illegal arrest in violation of DK Basu Guidelines due to his work as a journalist. It is a gross abuse of Article 19(b) and Article 21 of the Indian Constitution. We are also deeply concerned of him being subjected to custodial torture during the night, verbally abused and being forced to stay awake.

Custodial torture is a crime in Indian and international law. The Hon'ble Supreme Court of India has called torture "one of the worst crimes in a civilised society governed by the rule of law." Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Whereas Article 2 of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

Further, the Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clauses 2 and 3 of Article 12 of the declaration state: *"The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."*

A free media is an extremely important fourth pillar of the Indian democracy. Our Constitution gives journalists the right to exercise freedom of speech and expression under Article 19(a) of the Indian Constitution which is crucial to the work of HRDs, including journalists. The right to freedom of expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kind. A free press and active civil society are essential to ensure the public's right to know, so that governments and institutions can be held accountable. The protection of journalists and ending impunity for attacks against them, is a priority for safeguarding freedom of expression. States are under an obligation to prevent, protect against, and prosecute attacks against journalists. If journalists like Mr. Bansal, face punitive action and custodial torture for trying to report on political events, no journalist will dare to report in a democracy.

Appeal:

We appeal to the Hon'ble Commission to urgently take action and:

- Direct NHRC's investigation wing to initiate an independent inquiry into the abduction, illegal arrest and custodial torture of journalist Mr. Gaurav Bansal, and submit a report to the NHRC within two weeks.
- Depending on the result of the inquiry, direct the Director General of Police of Uttar Pradesh take stern action against errant police officials who were responsible for abduction, illegal arrest and torture of Mr. Gaurav Bansal and submit a report to the NHRC within two weeks.
- Direct the Director General of Police of Uttar Pradesh to initiate steps towards quashing of fabricated charges against Mr. Gaurav Bansal.
- Direct the Government of Uttar Pradesh to provide compensation of Rs 10 Lakhs to Mr. Gaurav Bansal for his mental and physical torture and for tarnishing his image and ensure his complete physical safety, including protection from arrest.
- Direct the Director General of Police of Uttar Pradesh to mandatorily conduct trainings on law and duty of the police for all police personnel and report the update on the same to the NHRC within three months.

Yours sincerely,



Henri Tiphagne
National Working Secretary