



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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NHRC Diary No. 6813/IN/2020 for the complaint submitted online

Ref No: HRDA/North/DEL/06/05/2020

May 27, 2020

To,
Mr. Debindra Kundra,
National 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 – Misuse of law and non-compliance with mandatory procedures to falsely implicate and harass student-activist and Jamia Coordination Committee (JCC) member Mr. Meeran Haider, currently lodged in Tihar Jail –Regarding

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 the arrest of Jamia Coordination Committee (JCC) member Mr. Meeran Haider for his alleged involvement in violence which erupted in Delhi in February 2020. At the onset, HRDA would like to state that the charges against Mr. Haider are baseless and are acts of reprisal for his peaceful legitimate exercise of fundamental rights guaranteed by the Indian Constitution.

Source of Information:

- Communication with the HRDs in the region
- Media Reports

Date of Incident:

April 01, 2020

Place of Incident:

Special Cell Police Station, Lodhi Colony

The Perpetrators:

Police Personnel of Delhi Police, Special Cell.

About the Human Rights Defenders:

Mr. Meeran Haider is a research scholar (PhD Student) at Jamia Millia Islamia University and President of the Chhatra Rashtriya Janata Dal Delhi Unit. He is also a member of the Jamia Coordination Committee and has led various peaceful protests against the Citizenship Amendment Act, 2019.

Details of the incident:

On April 01, 2020, Mr. Haider received a written summon from the Special Cell Police Station, Lodhi Road, to reach the police station for interrogation purposes at 10:00 AM on that very day. The summon was dated March 31, 2020 and had asked Mr. Haider to report by 10 AM on April 01, 2020. He was accompanied by his lawyer. At the Special Cell police station, Mr. Haider was questioned for almost the entire day and then was arrested by the Special Cell under FIR No. 59/2020 (Sections 147, 148, 149 read with 120B of the IPC). On April 02, 2019, Mr. Haider was produced before Metropolitan Magistrate for remand hearing. The MM granted a police remand for four days initially and then later extended it by nine more days.

At the time of arrest of Mr. Haider, the charges invoked under FIR No. 59/2020 were bailable offences, with no mention of the other IPC sections, other laws and Unlawful Activities Prevention Act, 1967, which were only added at a later stage. Prima facie there was a violation of Supreme Court's directions in Arnesh Kumar vs State of Bihar. It was only after three-weeks of Mr. Haider's arrest that the draconian UAPA was invoked with the sole intention to keep the HRD in custody for a longer period of time.

Details for FIR No. 59/2020:

The said FIR was registered on March 06, 2020, on the complaint by Sub-Inspector Arvind Kumar, N Cell, Crime Branch, New Delhi. The FIR originally made out charges

under Section 147, 148, 149 read with 120B of the Indian Penal Code (IPC). However, later offences under Sections 124A, 153A, 186, 353, 212, 295, 427, 436, 452, 454 read with Section 34 of the Indian Penal Code along with Section 3 & 4 Prevention of Damage to Public Property Act [PDPPP] and 25 & 27 Arms Act. Mr. Haider wasn't named in the FIR. The complaint sets out that SI Arvind Kumar has been informed through secret sources that the riot situation in Delhi that prevailed from February 23 to 25, 2020, was a well-thought conspiracy.

After the remand, he was sent to judicial custody on April 14, 2020, and has been lodged in Tihar jail since then. The application for bail was filed on April 15, 2020, and the same was rejected on April 20, 2020.

It is to be seen that Mr. Haider has been arrested on the alleged pretext of giving inflammatory speeches at anti-CAA protest sites leading to the riots in North-East Delhi. Mr. Haider has emerged as an active voice in the anti-CAA protests across New Delhi. However, it is brought to the notice of the Hon'ble Commission that Mr. Haider had given no speech in the week preceding the violence that took place. It is not only far-sighted but unreasonable to presume that the riots got triggered after one week of Mr. Haider's speech. The police has failed to show any reasonable nexus between the alleged inflammatory speech by Mr. Haider and the riots that broke out.

Threat to Freedom of Speech & Expression:

In *Shreya Singhal v. Union of India* (2015), the Supreme Court held that the freedom of speech and expression have three parts - discussion, advocacy and incitement. It noted that only when discussion and advocacy reach the level of incitement, can the freedom of speech be curbed based on reasonable restriction. Any law which does not distinguish between the said exercise of free speech and adverse effects of public order is unconstitutional. Therefore, in the instant matter, even if any address was made, there is no evidence to believe that the address was anything more than discussion and advocacy, well within the fundamental right of speech and expression as guaranteed under Article 19(1)(a) of the Constitution of India. As activists and human rights defenders, the arrested activists follow the spirit to protect the constitutional norms, involving themselves in discussion and advocacy, which is not a ground for criminalization.

The arrest of Mr. Haider is not an isolated event but shows the intention of the State to criminalize speech by arresting activists and defenders in the country. The string of arrests also comes at a time where the apex court has given clear directions to decongest the prisons amid the widespread of COVID-19 and ensure arrests take place only in the cases where it is absolutely necessary.

Appeal:

HRDA believes that Mr. Meeran Haider is student human rights defender and this is a completely fabricated case by the Delhi Police to target him for actively opposing the CAA. All mandatory provisions of law and procedures regarding arrests as laid out by the Cr.P.C, NHRC and the Supreme Court are grossly violated. Adding stringent provisions of IPC, PDPP, Arms Act and UAPA to this FIR, only demonstrate malafide intentions of the Delhi Police.

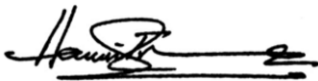
We appeal to the NHRC to treat this as a case of reprisal against a human rights defender for exercising his fundamental rights guaranteed through Article 19 of the Indian Constitution and malafide actions by the Delhi Police significantly impinging upon his to right to life with dignity. Thereby, we urge the NHRC to urgently –

- Issue notice to the Commissioner of Police of Delhi to produce **within 48 hours** all relevant documents pertaining to the arrest of Mr. Meeran Haider for an independent examination by the NHRC.
 - arrest memo as required under Section 41B of the Cr.P.C, including name and designation of the police officer who prepared the arrest memo
 - medico-legal certificate prepared under Section 53 of the Cr.P.C, as well as report of the medical examination conducted under Section 54 of CrPC
 - Inspection Memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo

- names, duty records and registers of all arresting/detaining officers and Station In-Charge on duty in the Special Cell police station on the relevant dates
- General Diaries, FIR and arrest registers of Special Cell police station
- CCTV footage from the Special Cell police station for the relevant dates
- Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the Cr.P.C, particularly with Sections 41A, 41B and 41D, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code were followed by the police.
- Examine compliance with the NHRC Guidelines on Arrest.
- Direct the Prison Monitor of the NHRC, who may, along with a Member of the NHRC, undertake an immediate urgent visit to the Tihar Jail and determine the conditions of detention.

Looking forward to your immediate action in this regard,

Yours sincerely,

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

(Henri Tiphagne)

National Working Secretary