



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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

June 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 – Delhi - Urgent Appeal for Action – Misuse of law and charges
of sedition against journalist Mr. Vinod Dua—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 sedition and other criminal charges against senior journalist Mr. Vinod Dua. HRDA would like to state that these charges against Mr. Dua are fabricated and he is being repeatedly harassed and falsely implicated because of his journalism. We would like to point out that an FIR was filed against him and investigation in this FIR was stayed by the Delhi High Court. Within two days, another FIR was filed against him including on charges of sedition. Both the FIRs were filed by functionaries of Bharatiya Janata Party (BJP). Furthermore, Mr. Dua is a senior citizen based in Delhi with illnesses like thalassemia minor with iron deficiency, anaemia, pancytopenia (low red & white blood cell and low platelets count), hypertension & splenomegaly, diabetes and hypothyroidism and being asked to appear at Kumarsain in Himachal Pradesh by the police on a 24-hour

notice during the COVID-19 lockdown when senior citizens are not allowed to travel would have seriously proved a danger to his life.

Source of Information:

- Communication with the HRDs in the region
- Media Reports

Date of Incident:

May 6, 2020 (First FIR)

June 4, 2020 (Second FIR)

Place of Incident:

New Delhi, India

The Perpetrators:

- Police personnel of Delhi police
- Police personnel of Himachal Pradesh police

About the Human Rights Defender:

Mr. Vinod Dua is a Padma Shri awardee and a veteran journalist with a reputation for journalistic integrity. He is 66 years old and started his career from Doordarshan India. He was awarded the Padma Shri for Journalism in 2008 and the first electronic media journalist awarded by the BD Goenka Award for excellence in journalism in 1996. He is well known for his critical and acclaimed pieces of social and political analysis. Currently, he is the Consultant Editor of HW News and anchors a show called The Vinod Dua Show on HW News Hindi at 9PM on the internet platform - YouTube.

Details of the incident:

On March 11, 2020, Mr. Dua during his YouTube show discussed the riots in the national capital, New Delhi. Mr. Dua mentioned that the central government has unfortunately sought to take credit for controlling the riots within 36 hours, while the entire country was aware that the violence was instigated based on the remarks of their own party (BJP) leaders. (The link of the video uploaded is: <https://youtu.be/6auFm0CBopM>).

On June 4, 2020, FIR No. 74/2020 was filed in New Delhi's Laxmi Nagar police station, under IPC sections 290 (public nuisance), 505 (statements conducing to public mischief), and 505 (2) (statements creating or promoting enmity, hatred or ill-will

between classes). The case was filed by Mr. Naveen Kumar, a spokesperson of BJP in Delhi. The FIR alleges that Mr. Dua has said that high governmental functionaries were responsible for and instigated the riots that occurred in North-East Delhi. However, a perusal of the show, mentions that no such comment or allegation was at all made. All that was said in the webcast is that the functionaries did not visit the riot-affected areas and were pre-occupied with the on-going State visit of a foreign dignitary. The Delhi High Court stayed the investigation against Mr. Dua till a further date. The court also noted that the steps taken so far by the police in the case did not appear to be in consonance with the law and “do not inspire much confidence”.

Within two days after the stay by the Delhi High Court, Mr. Dua received summons in another FIR 52/2020 filed against him under the IPC sections 124A (sedition), 268, 501 and 505 by Mr. Ajay Shyam who is a BJP district president in Himachal Pradesh. The FIR was filed on May 6, 2020, in Kumarsain in Himachal Pradesh, but Mr. Dua was notified on June 11, 2020, by the Himachal Pradesh police at his residence in New Delhi and he was asked to appear within 24 hours at the Kumarsain police station for interrogation.

Mr. Dua filed a petition in the Supreme Court to quash the FIR in Himachal Pradesh. The Supreme Court bench of Justice Uday Umesh Lalit, Justice Mohan M. Shantanagoudar and Justice Vineet Saran ordered that Mr. Dua will not be arrested till July 6, 2020, and co-operate with the police via video conferencing and online. However, the Supreme Court allowed the HP police to continue their investigation of the case and interrogate Mr. Dua at his residence after giving him 24 hours’ notice.

HRDA strongly feels that these two FIRs including one of sedition, against a Padma Shri awardee journalist are just another in the series of witch-hunts being carried out against journalists who are critical of the policies of the ruling establishment. Firstly, the FIRs are fabricated and bogus, since the allegations made in the complaint as recorded in the FIRs, prima facie do not reflect what was actually said in the webcast; secondly, there is no explanation for the inordinate delay in making the complaints and registration of the FIR, which was made more than 70 days after the webcast. Finally both the complaints have not been made by some member of the common public but by people who are publicly a spokesperson and district president respectively of a ruling political party at the Centre.

Moreover, the notification of the Himachal Pradesh police on the May 6 FIR, barely 48 hours after the Delhi High Court staying the June 4 FIR, is proof of the malignant intent of the State to continuously harass and intimidate Mr. Dua and to warn other journalists from reporting against the political establishment.

India is a democracy and a free media is an extremely important fourth pillar of the democracy. Our Constitution gives the journalists the right to exercise freedom of speech. These FIRs filed by functionaries of the political party in power are proof of a political vendetta against Mr. Dua and absolutely violate his right to freedom of speech and expression under Article 19(a) of the Indian Constitution. Freedom to expression is crucial to the work of HRDs, including journalists. The right to freedom of opinion and 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. On the aforesaid it is stated that Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights.

Recently the controversial sedition law has been extensively misused by authorities to silence dissent and criticism. India's Supreme Court has imposed sharp limits on what construes sedition. In the landmark 1962 ruling in Kedar Nath Singh v State of Bihar, the Supreme Court ruled that unless the accused incited violence by their speech or action it would no longer constitute sedition, as it would otherwise violate the right to freedom of speech guaranteed by the constitution. The FIR against Mr. Dua for journalistic telecast is a clear illustration of the fact that the idea of a free press is severely restricted. Constitutionally guaranteed right has no meaning if free expression is countered by this kind of "police and legal harassment."

Finally Mr. Dua is a senior citizen suffering from diabetes and various other illnesses and all senior citizens are prohibited from travel during the COVID 19 time because of danger to their lives. He would have been travelling from a red zone/ containment zone to Himachal Pradesh thus requiring a quarantine of at least 14 days. The Himachal Pradesh police were well aware of these government orders yet chose to serve him a notice of 24 hours to travel from Delhi to Himachal Pradesh. This itself reveals the malignant intention of the police to intimidate Mr Dua and endanger his life.

Appeal:

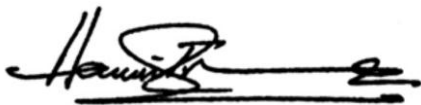
We urge the Hon'ble Commission to immediately intervene in this matter of the police misusing law to silence questions by journalists and restricting their fundamental rights to dignity and liberty. Though these FIRs are petitioned for quashing before the Delhi High Court and Supreme Court, being the national human rights institution of India, we urge you to intervene in this case exercising appropriate provision (Section 12 b) of the Protection of Human Rights Act and independently analyse the contents of the video, Mr. Dua's journalistic endeavour, for which he is now charged with Sedition. Hon'ble Commission's interventions in this case will go a long way to uphold freedom of the press in India.

HRDA urges the Hon'ble Commission to urgently –

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the harassment and intimidation of journalist Mr. Vinod Dua by the Delhi police and the Himachal Pradesh police.
- The Director General of Police, Himachal Pradesh and the Commissioner of Police, Delhi be directed to submit a comprehensive report pertaining to the above incidents.
- Exercise Section 12 (b) of the Protection of Human Rights Act and intervene in the said proceedings before the court through a competent senior lawyer.
- Ensure that there is no danger to the life of Mr. Dua through any negligence of state officials during the COVID 19.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary