



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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March 2, 2021

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: Fabricated charges and wrongful arrest of journalist Mr. Saleem Khan

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 harassment, fabricated charges and wrongful arrest of journalist Mr. Saleem Khan by police officials of Panna district in Madhya Pradesh.

Source of Information:

- Information from HRD
- Information from HRDA West regional consultant

Date of Incident:

December 27, 2020

Place of Incident:

Panna, Madhya Pradesh

Perpetrators:

- Mr. Mayank Awasthi, (the then) Superintendent of Police, Panna
- Mr. Arun Soni, Inspector, Panna police station, Panna
- Sub Inspector, Balveer Singh, Panna police station, Panna
- Police officials at Panna police station, Panna

About the Human Rights Defender:

Mr. Saleem Khan is a journalist based in Panna District of Madhya Pradesh. He has his own news portal srokaarnews.com. He has been a journalist for nearly 25 years and has been reporting on issues in Panna district, most notably on the illegal sand mining mafia that operates in the district. He has in the past worked for a news service called Rashtriya News Service, Naya India newspaper and even brought out a local newspaper Agli Sadi, which he closed in 2019.

Background of the incident:

On October 25, 2020, Mr. Saleem Khan, for a news report he was writing, had visited the *mandi* in Panna that was built and inaugurated in 2020. At the time there was a dispute between the vegetable vendors and other shopkeepers over slots in the *mandi*. Local TV journalist Mr. Durgesh Shishvhare from Sadhana News was also present to cover a story at the *mandi*. As they were doing their work, both were stopped by Mr. Mohammad Ilyas, a vegetable vendor, and his friends. The two journalists did not wish to enter into an altercation and hence stopped taking photographs and video footages.

Later that day he published an article about the lack of amenities to shopkeepers at the *mandi* on his news portal. He also included comments of the *mandi* secretary Mr. Rajkumar Dwivedi.

He sent the link of the story on several WhatsApp groups and it was picked up by other news agencies and newspaper who also covered it. Following this he received threatening messages on his WhatsApp from Mr. Ilyas. On October 27, 2020, Mr. Khan wrote to the then Superintendent of Police (SP), Mr. Mayank Awasthi, narrating the incident and requested him to take action against Mr. Ilyas.

Details of the Incident:

On December 25, 2020, Mr. Balveer Singh, Sub-Inspector, Panna police station, called Mr. Khan and asked him to come to the police station. Mr. Khan was told that this was in relation to the letter he had written to the SP on October 27, 2020, and he should come to collect a copy of the FIR. When Mr. Khan asked when he could come, Mr. Singh told him to come the next day.

Following on the telephonic conversation, on December 26, 2020, Mr. Khan called Mr. Singh and asked if he could come to collect a copy of the FIR, to which the later replied in the negative.

On December 27, 2020, he was again called by Mr. Singh around 11 a.m. and asked to come to the police station. The HRD went to the police station at around 11:30 a.m. and was made to wait till 3 p.m. without any explanation being provided as to why he was kept waiting.

Around 3 pm, Mr. Singh took him to the officer in charge, Inspector Mr. Arun Soni. Mr. Soni told him that they were placing him under arrest and confiscated his mobile phone. The HRD asked on what grounds or for which case he was being arrested to which Mr. Soni said that there were several complaints against him. Mr. Khan requested that he be allowed to call his lawyer, however, Mr. Soni declined this request.

The HRD asked to send the intimation of his arrest to his brother as his wife had recently returned home after being in hospital due to an illness. But Mr. Soni insisted that the intimation of the arrest be sent to his wife. After much pleading, Mr. Soni agreed and informed his nephew.

The Panna police station registered an FIR No. 0958 against Mr. Khan at 10 p.m. on December 25, 2020. The FIR is based on Mr. Ilyas' complaint on the same day. In his complaint, Mr. Ilyas states that Mr. Khan had abused, assaulted and threatened him on December 23, 2020. In his complaint he has stated that he did this in the presence of several eyewitnesses.

The police charged Mr. Khan under sections 323 (causing voluntary hurt), 294 (uttering obscene words in public) and 506 (criminal intimidation) of the Indian Penal Code (IPC). The HRD was presented in court on the same day as his arrest around 4 p.m., which granted him bail. Even after being granted bail, the police withheld the HRD's mobile phone and gave it only after calls from his lawyers. However, later the police have subsequently added section 386 (extortion) of the IPC, which is a non-bailable offence.

We believe that the above case against journalist Mr. Khan is a case of abuse of power and fabricated charges on Mr. Khan due to his reportage.

We also believe that the police violated multiple sections of the DK Basu guidelines of arrest and that the arrest can't be called valid in absence of proper arrest procedures. The guidelines categorically state that an arrest memo must be prepared at the time of arrest and the same should be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest. No arrest memo was created at time of the arrest. No seizure memo was given to the HRD either for seizure of his phone.

Mr. Khan was not allowed to call his lawyer despite his request, a violation of his right as mentioned in the DK Basu guidelines. He was asked to come to the police station under the false pretext of picking up a copy of his FIR, not told of the charges or questioned the entire day.

Various questions remain: why was no action taken by the SP on Mr. Khan's complaint? Why was a copy of his FIR never provided to him despite calling him to the police station under this pretext? Why were the charges of extortion added to Mr. Khan despite there being no mention in the complaint. All these raise grave questions about the malafide intentions of the Panna police against the journalist.

India is a democracy, and a fearless media is crucial to India. The Indian Constitution gives the everyone the right to exercise freedom of speech and expression under Article 19(a). 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. These rights are integral to the work of journalists and HRDs. If journalists are charged in fake cases every time, they try to bring a story to light the fourth pillar of the democracy will crumble.

Furthermore, the Declaration on Human Rights Defenders 1998 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. If the police itself seeks to suppress these rights of the journalists they must be taken to account. Globally, Journalists who are human rights defenders as well face major risks as a result of their work both from the state and out of state actors. The protection of journalists and human rights defenders, and ending impunity for attacks against them, is a global priority for safeguarding freedom of expression. States are under an obligation to prevent, protect against, and prosecute attacks against journalists and human rights defenders. 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.

Appeal:

We thus urge the Hon'ble Commission to take urgent action and:

- Direct Hon'ble Commission's investigation wing to undertake an urgent, transparent and impartial investigation into the flouting of arrest procedures and the fabricated charges on HRD Mr. Saleem Khan.
- Depending upon the result of the investigation, direct the Director General of Police of Madhya Pradesh, to take urgent and strict actions against the Mr. Mayank Awasthi, (the then) Superintendent of Police, Panna, Inspector Arun Soni, Sub-Inspector Balveer Singh, and other police personnel of the Panna police station.
- Depending upon the result of the inquiry, direct the Director General of Police of Madhya Pradesh to take steps to file final report in the FIR against HRD Mr. Saleem Khan and initiate urgent actions in the complaint made by Mr. Saleem Khan.
- Direct the Chief Secretary of Madhya Pradesh to provide compensation of Rs. 1,00,000 to Mr. Saleem Khan for the mental trauma inflicted upon him by the personnel of the Panna police station.

Yours Sincerely,



Henri Tiphagne

National Working Secretary