



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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NHRC Diary No. 6810/IN/2020 for the complaint submitted online

Ref No: HRDA/North/DEL/07/05/2020

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, Ms. Gulfisha Fatima, 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 student-activist Ms. Gulfisha Fatima for her alleged involvement in organizing protests at the Seelampur-Jaffrabad metro station and falsely accusing her in planning the riots in North-East Delhi riot. At the onset, HRDA would like to state that the charges against Ms. Gulfisha are baseless and are acts of reprisal for her 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 09, 2020

Place of Incident:

Tughlakabad

The Perpetrators:

Police Personnel of Delhi Police

About the Human Rights Defender:

Ms. Gulfisha is an aspirant for the National Entrance Test [NET] aspiring to make a career in academia. She had done B.A. and M.A. (hons.) in Urdu from Delhi University. She comes from a lower income family. Her father is an ailing man who aspired to educate his children. Her father runs a small grocery shop in Jaffrabad to make ends meet. She was actively involved in the women's led protest in Seelampur, North-East Delhi against the Citizenship Amendment Act, 2019 (CAA). She held literacy classes with the women there, awareness sections on CAA, NPR and NRC and was a strong voice for the constitutional principles of secularism, and women's rights in the protest.

Details of the incident:

As per media reports and other sources, on April 08, 2020 Ms. Gulfisha was served with a notice from the Special Cell, Crime Branch. On April 09, 2020, at around 7:30 PM, Ms. Gulfisha was picked up from Tughlakabad by the police personnel of Special Cell Police Station, Lodhi Colony, along with three other co-accused – Shadab, Suhail and Taslim. Five jeeps of armed police officers and personnel from crime branch had completely cordoned the entire area. They picked up Ms. Gulfisha without producing any warrant. Subsequently, Ms. Gulfisha was taken to the Special Cell Police Station, and later arrested in a Jaffrabad police station FIR numbered 48/2020. Prima facie there was a violation of Supreme Court's directions in Arnesh Kumar vs State of Bihar.

On the next day, April 10, 2020, Ms. Gulfisha was produced before the Metropolitan Magistrate at the Mandoli Jail Complex wherein he granted two days of police custody. She was not given any legal representation for the remand hearings. By the end of the remand period, on April 12, 2020, Ms. Gulfisha was taken to Mandoli Jail and was again arrested in another FIR bearing No. 59/2020 at the Special Cell Police Station. She was again granted four days' police custody in FIR No. 59/2020 by the

Metropolitan Magistrate and was then taken to the Special Cell Police Station. On April 16, 2020, Ms. Gulfisha was remanded in judicial custody and since then has been lodged in the Tihar Jail.

Details for FIRs:

59/2020 PS Special Cell	48/2020 PS Jaffrabad
<p>The said FIR was registered on March 06, 2020 on the complaint by Senior Inspector Arvind Kumar, N Cell, Crime Branch, New Delhi. The FIR originally made out charges under Sections 147, 148, 149 read with 120B of the Indian Penal Code (IPC).</p> <p>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.</p> <p>Originally the FIR had only non-bailable offences. However, after the arrest of Gulfisha and other accused, 18 more offences were added under Sections 302, 307, 124A, 153A, 186,53, 395, 427,435, 436, 452, 454, 109, 114 of the IPC along with Sections 3 & 4 of the Prevention of Damage to Public Property Act (PDPP) and 25 & 27 Arms Act, of which some offences are non-bailable.</p> <p>On April 20/21, 2020, in the said FIR, the police invoked Section 13, 16, 17 and 18 of the Unlawful Activities Prevention Act, 1967 (UAPA).</p>	<p>FIR No. 48/2020 has been registered on March 23, 2020 on the complaint of one Devendra Singh mentioning of fourteen accused of which, Ms. Gulfisha is the first accused. The offences set out in the said FIR are under Section 186, 188, 353, 283, 341,109,147 read with Section 34 of the Indian Penal Code. The allegations pertain to the calling of a protest resulting in <i>chakkajam</i> on February 22, 2020 beneath the Seelampur-Jaffrabad Metro Station against the Citizenship Amendment Act, 2019.</p> <p>She was granted bail in this FIR on May 13, 2020.</p>

Appeal:

HRDA believes that Ms. Gulfisha Fatima is woman human rights defender and this is a completely fabricated case by the Delhi Police to target her for actively opposing the CAA. All mandatory provisions of law and procedures regarding arrests as laid out by the CrPC, NHRC and the Supreme Court are grossly violated at each stage. Re-arrest under the FIR at the Special Cell 59/2020 in which Ms. Gulfisha wasn't even named

and adding stringent provisions of IPC, PDPP, Arms Act and UAPA to this FIR, only demonstrate malafide intentions of the Delhi Police.

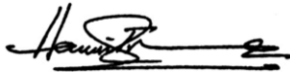
We appeal to the NHRC to treat this as a case of reprisal against a woman human rights defender for exercising her fundamental rights guaranteed through Article 19 of the Indian Constitution and malafide actions by the Delhi Police significantly impinging upon her to right to life with dignity. Thereby, 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 Ms. Gulfisha Fatima for an independent examination by the NHRC.
 - arrest memo as required under Section 41B of the CrPC, including name and designation of the police officer who prepared the arrest memo
 - medico-legal certificate prepared under Section 53 of the CrPC, 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 and Jaffrabad police station on the relevant dates
 - General Diaries, FIR and arrest registers of Special Cell police station and Jaffrabad police station
 - CCTV footage from the Special Cell police station and Jaffrabad police station for April 9-10, 2020
- Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, 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.
- Examine whether the District Legal Services Authority was informed by the Special Cell police station and Jaffrabad police station of the arrests and detentions.
- Examine whether women police were at the place of arrest and in police stations
- 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