



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

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September 14, 2020

To,
Mr C S 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 – Maharashtra: Misuse of law by Mumbai Police asking WHRD Ms. Suvarna Salve Rs 50 Lakh as surety for participating in peaceful citizen protest.

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 the notice issued by Mumbai Police to Ms. Suvarna Salve demanding that she provides one or two individuals to pledge a sum of Rs. 50 lakh as a surety for her good behaviour and deeming her to be a habitual offender. Ms. Salve is the lead singer of the cultural troupe Samata Kala Manch and has also been involved in peaceful protests demanding justice for atrocities committed against Dalits and other marginalised communities.

Source of Information:

- Information from HRDA West regional coordinator
- Communication with the WHRD
- Media reports

Date of Incident:

August 24, 2020

Place of Incident:

Mumbai, Maharashtra

Perpetrators:

Mr. Santosh Walake, Assistant Commissioner of Police, Azad Maidan Division, Mumbai.

About the Human Rights Defender:

Suvarna Salve (24) is a Dalit activist and singer in the cultural troupe Samata Kala Manch. She has been participating in agitations and protests against caste violence and atrocities since long. She is also part of the Joint Action Committee (JAC) formed to fight for justice for Rohit Vemula and other students from marginalised sections facing discrimination and harassment across universities in India.

Background of the incident:

On January 6, 2020, around 300 to 350 people had participated in a peaceful rally from Hutatma Chowk to Gateway of India in Mumbai to protest the attack on students of the Jawaharlal Nehru University (JNU). The WHRD had participated in this rally. An FIR was filed on January 8, 2020, at the MRA Marg police station which mentioned her along with 30 others for participating in the rally. The FIR was filed under Sections 141, 143, 149 and 341 of the Indian Penal Code (IPC) for unlawful assembly and wrongful restraint and the Sections 37(1)(b) and 135 of the Maharashtra Police Act, 1951. No arrests took place after filing the FIR.

Details of the Incident:

On August 24, 2020, the WHRD was issued a notice to explain as to why should the police not initiate proceedings under section 110 (e) of the Code of Criminal Procedure (CrPC). The notice further states that one or two persons should appear to provide surety and pledge an amount of Rs. 50 lakhs to ensure good behaviour from the HRD for a period of two years.

The notice also gave the WHRD until August 28, 2020, to appear before the authorities and provide the explanation regarding why the police should not initiate proceedings against her? She was the only one among the 31 accused who was asked to do so.

It is our belief that this notice is way to stifle dissent and freedom of speech and expression of Ms Salve as a WHRD. She is being targeted for taking part in peaceful citizenship protests. Article 19 (1)(b) of the Indian Constitution guarantees to all citizens of India rights *to freedom of speech and to assemble peaceably and without arms*. This right includes the rights to protest and to take out processions. Thus taking part in peaceful protests and processions is the right of every citizen. The rally where over 300 individuals participated was peaceful with no untoward incidents or instances of any kind of violence having been reported. The WHRD has only participated in peaceful protests to uphold the rights guaranteed in the constitution. To serve a notice shows the malignant intention of the Police to target the WHRD for actively taking part in various peaceful citizenship movements.

We believe that the current notice of the police asking the WHRD to pay a surety of 50 lakhs has no merit. It stems from an intent to suppress voices who are protesting atrocities against marginalised sections of the society. Why was it sent to a single individual out of a group of over 300 persons who attended the peaceful protest? The notice seems to single her who is a Dalit WHRD and has been vocal about caste atrocities occurring across the state and the country and has taken part in the protests opposing the Citizenship Amendment Act and the National Register of Citizens.

Section 110 of the CrPC deals with habitual offenders and is used for criminals who routinely engage in crimes such as theft and dacoity. The various sub sections of Section 110 deal with the list of crimes that one needs to commit habitually and include stealing, house-breaking, concealment of stolen property, harbouring criminals, etc. Sub section (e) notes that surety can be demanded for good behaviour from a person who habitually commits, or attempts to commit, or abets the commission of, offences, involving a breach of the peace.

Appeal

Article 19 (1) of the India constitution allows for right to freedom to assemble peacefully. This was the case even here. The FIR which has been registered by the MRA Marg Police station for the same rally has charged all 31 accused under bailable sections of the IPC, which carry a maximum sentence of six months. The notice does not cite any other FIR or instance of any offence of any kind. We hence urge the Hon'ble Commission to:

- Direct its investigation wing to hold an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation and harassment of a Dalit Woman HRD.
- Depending on the outcome of the inquiry, to immediately revoke the notice of 50 Lakh as surety against Ms. Salve, to take definite actions to quash all charges against her and apologise to the WHRD for the psychological suffering she has had to undergo because of this harassment.
- Put an end to all acts of harassment and intimidation against all human rights defenders in general in Maharashtra to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances.

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