



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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September 29, 2020

To

Mr. C.S Mawri,
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 – Chhattisgarh: Journalists in Kanker physically assaulted and threatened with murder in police station compound by politically powerful goons; accompanied by inaction and misuse of law by the local police

NOTE: On September 26, 2020, At about 8:30 pm, HRDA tried to reach the NHRC to request urgent intervention as the reports of assault of journalists in Chhattisgarh filtered in and that they were trying to get the relevant FIR filed. Since we were unable to reach the HRD Focal Point, Mr. CS Mawri initially, we contacted the Joint Registrar Mr. Sunil Arora and sent a mobile petition asking him to urgently intervene with the SP of Kanker to file an FIR against the assailants under the correct and relevant sections. Mr. Mawri called back too in the meantime and was apprised on the entire incident and was sent a petition and the SP's contact also. Both Mr. Arora and Mr. Mawri got back promptly after the mobile petition was sent to them and said that they had spoken to the IG of Police and SP of Kanker respectively and had been assured of action. Mr. Arora apprised us that he was told that the assailants has been arrested. We thank the NHRC to urgently intervene on a Saturday evening to take up the case of an HRD assault.

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 over the threat to murder and serious physical assault on a group of journalists, specially Mr Kamal Shukla, inside a police station, and outside accompanied by inaction and apathy by the local police as well as fabricated charges against the journalists.

About the Human Rights Defenders:

Mr. Kamal Shukla is a veteran journalist, Editor of *Bhumkal Samachar*, and co-ordinator of the *Patrakar Suraksha Kanoon Sanyukt Sangharsh Samiti* in Chhattisgarh.

Based in Kanker district of Chhattisgarh, Mr. Shukla has consistently reported on human rights violations, corruption and militarisation of forest areas in the state for over 32 years. He has also been at the forefront of a campaign demanding legislation for the protection of journalists in Chhattisgarh.

Many of his recent reports have highlighted the nexus between leaders and strongmen of ruling political party and the local administration in allowing illegal sand mining. Mr. Shukla and other journalists had organised a rally demanding the removal of the District Collector in Kanker on September 07, 2020, accusing him of sheltering corrupt officials and the local mafia. *The Patrakar Suraksha Kanoon Sanyukt Sangharsh Samiti*, has also called for a jail-bharo andolan by journalists across the state on October 2, 2020, to highlight the increased threat to human rights defenders in the state.

Source of Information:

- Communication with the HRD
- Communication with HRDA East Regional Co-ordinator
- Communication with other HRDs in the region
- Media reports
- Social media posts

The Perpetrators:

- Police personnel of the City Kotwali Police Station, Kanker, Chhattisgarh
- Mr. Mordhwaj Deshmukh, Town Inspector (TI), City Kotwali police station, Kanker, Chhattisgarh
- Mr. Jitendra Singh Thakur, Mr. Ghaffar Memom, Mr. Ganesh Tiwari, Mr. Maqbool Khan, Mr. Shadab Khan — all local leaders of the Congress Party.

Date of Incident:

September 26, 2020

Place of Incident:

Kanker, Chhattisgarh.

Background of the Incident:

On September 26, 2020, at around 1.45 PM, when local journalist, Mr. Satish Yadav – who had recently reported on corruption in the Kanker municipal corporation – was at a tea stall, he was attacked, allegedly by Congress leaders associated with the Kanker Municipal Corporation. Mr. Yadav told the media that the attackers dragged him to the City Kotwali police station compound, and continued abusing and beating him there.

When Mr. Shukla, who lives close to the City Kotwali police station, heard of the attack, he rushed there at around 2 PM. He found around 25 people assaulting Mr. Yadav in the police station compound, who dispersed after his arrival. Mr. Shukla took Mr. Yadav into the police station in-charge's room, and helped him register a FIR (FIR No. 0257/ 2020) against the attackers. The duo then asked the Town Inspector (TI) Mr. Mordhwaj Deshmukh for permission to stay inside the building, but he turned them away.

When Mr. Shukla and Mr. Yadav stepped out of the police station building, they found that a mob of 250-300 people led by well-known Congress leaders had assembled in the police station compound, who abused and threatened to attack them. Mr. Shukla and Mr. Yadav went back inside the police station building to seek refuge, but were refused permission by TI Mr. Deshmukh for the second time.

When they stepped out again around 2.30 PM, around 25 journalists who had heard of the attack formed a ring around them to protect them from the mob and escort them to safety. But the mob turned violent and thrashed Mr Shukla and other journalists, first inside the police station compound, then on the road in front of it.

Mr. Shukla said that *"Mr. Ghaffar Memon, a representative of the local Congress MLA Mr. Shishupal Shori, placed a gun on my head and threatened to kill me inside the police station compound, while the police was just watching. We pleaded with the TI to provide us refuge inside the police station building on two occasions, but he refused permission saying only 10 police personnel were present in the police station, who were insufficient to ensure our safety. Around 250-300 people, led by Mr. Jitendra Singh Thakur, Mr. Ganesh Tiwari, Mr. Maqbool Khan and Mr. Memon – all well-known workers of the Congress – assaulted us for three hours. All of this should have been captured in CCTV cameras in the police station and the area,"*

A video of the incident uploaded on Facebook showed Mr. Shukla being dragged along the road, his clothes torn and blood dripping from his head. He received injuries on his waist, ribs and head, which required two stitches. Several other journalists were also injured in the incident, and the attackers dispersed after the altercation.

After pressure from the journalists, the police at City Kotwali police station registered an FIR (0259/2020) under sections 294 (public acts of obscenity), 323 (voluntarily causing hurt), 506 (criminal intimidation) and 34 (act done by several persons in furtherance of common intention) of the Indian Penal Code (IPC) against Mr. Thakur, Mr. Memon, Mr. Tiwari, Mr. Khan and others.

However, Mr. Shukla said the police station in-charge stonewalled their attempts to charge the assailants with attempt to murder, and registered a counter complaint by one of the accused, Mr. Memon, who alleged that the altercation started when Mr. Shukla abused and threatened to kill him for not paying for an advertisement published in his newspaper. The accused were arrested and released on night of September, 2020.

Upset at the apathy of the police to register a serious public assault under cognizable offences, Mr. Shukla and other journalists left the Police station and participated in a 24-hour dharna at Ambedkar Chowk, in front of the District Collector's office. They also sent a petition to the Chief Minister and the Governor of Chhattisgarh, asking for their intervention in the matter.

"I and several other reporters have exposed massive corruption and highlighted instances of attacks on fellow journalists. This attack on me other journalists was a well-planned reprisal, and the police and state Congress leaders are working actively to protect the assailants," said Mr. Shukla.

It is our firm belief that this police failure to act, prima facie deliberate, amounts to a serious incident of human rights violation against HRDs and journalists in the state of Chhattisgarh. Not only were the journalists subjected to a violent mob attack in plain sight, the Police did not act to adequately shield or protect the journalists or register the FIRs under the cognizable sections.

Firstly when Mr. Yadav was assaulted inside the police station compound, the police failed to act. Then again when Mr. Shukla and other journalists were assaulted inside the police station compound, the police again did nothing. This is serious breach of the law by the police. The police failure to act constitutes breach of law and duty on several fronts.

If a gun was indeed placed on the temple of Mr. Shukla inside the police station compound, it demanded an immediate arrest of the assailant under IPC section 307 (attempt to murder). Section 41 of the Code of Criminal Procedure (CrPC) clearly lays down any police officer may arrest any person without a warrant, among other conditions, "who commits, in the presence of a police officer, a cognizable offence" (S. 41(a)). When the journalists were being attacked inside the police station compound, the police officers present would have seen that several cognizable offences were being committed – Sections 337, 340, 350, 351, 352 of the IPC applying to the criminal assault on the men. If the police would have acted to arrest immediately the further grievous assault would not have taken place on Mr. Shukla in the streets.

Many questions remain. Why was the mob of assailants allowed to enter the police station and attack the journalists? Why did the police not register an FIR and arrest

them immediately after the assault took place inside the police station? Why did they not allow the journalists to remain inside the police station? Why were the FIRs registered under bailable sections and not attempt to murder (307 IPC), despite a video showing a serious assault on Mr. Shukla in the streets?

Our Constitution gives journalists the right to exercise freedom of speech and expression under Article 19(a) of the Indian Constitution. Freedom to expression is crucial to the work of 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. These freedoms are also a part of the Universal Declaration of Human Rights.

If journalists are assaulted or live under fear of reporting stories critical of the local administration or politicians, it will be a breach of both the Constitutional rights and international human rights.

Appeal:

HRDA urges the Hon'ble Commission to acknowledge the urgency of the situation and immediately take urgent actions through the powers enshrined by the Protection of Human Rights Act 1993 section 12(b). We appeal to the Hon'ble Commission to protect human rights defenders, especially in this situation where they were targeted for demanding the recognition of their constitutional rights. We thus urge the hon'ble Commission members to:

- Since the journalists allege a nexus between the police, local administration and local political leaders, we urge the NHRC to initiate an immediate, independent, thorough, transparent, effective and impartial investigation through their investigative wing into the assault of Mr. Kamal Shukla, Mr. Santosh Yadav and others at Kanker and the role of the local police and administration in protecting the assailants.

- Depending on the result of the inquiry, direct the Superintendent of Police of Kanker to take stern action against errant police officials and local administration, including suspension, for aiding and assaulting established human rights defenders.
- Direct the Superintendent of Police of Kanker to submit within 48 hours, with the NHRC the CCTV footages, wireless records, duty records and other necessary information pertaining to the City Kotwali police station for the date and duration of the incident. This should also include video footage taken by witnesses while the assault was taking place in the streets.
- Direct the Director General of Police of Chhattisgarh to take definite measures that the fabricated FIR against Mr. Kamal Shukla and other journalists is quashed.
- Guarantee in all circumstances the physical security of journalist and Human Rights Defender Mr. Kamal Shukla who is still under risk of further reprisals from the perpetrators.
- Initiate steps to enact a law for the protection of journalists as accepted by the Indian government in Universal Periodic Review of the Human Rights Council in 2017 and ensure its immediate implementation.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary