

URGENT APPEAL - THE OBSERVATORY

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Judicial harassment

India

February 14, 2011

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), requests your urgent intervention in the following situation in **India**.

Description of the situation:

The Observatory has been informed by Banglar Manabadhikar Suraksha Mancha (MASUM) about the judicial harassment against Mr. **Julfikar Ali**, a District Human Rights Monitor of MASUM in the Murshidabad District.

According to the information received, the Murshidabad District Court heard today Mr. Julfikar Ali's petition for anticipatory bail¹ for a case filed against him on February 16, 2008 (see footnote). At the hearing, the District & Sessions Judge allowed the anticipatory bail on condition of a bond of 5,000 Indian Rupees (about 82 euros).

On February 11, 2011, the District Court granted another anticipatory bail to Mr. Ali with a bond of 3,000 Indian Rupees (about 49 euros) for another case filed against him on January 12, 2008.

The two criminal cases filed against him had been registered early 2008 by senior officials of the Border Security Force (BSF) Officers at Raninagar Police Station. Mr. Julfikar Ali has been subjected to continuous acts of harassment, intimidation and persecution by the Border Security Force (BSF), as consequence of his reports describing acts of torture and firings by BSF.

On 2 January 2011, around 10 a.m., an unidentified policeman in plain clothes arrived at Mr. Julfikar Ali's house and told his family members present in the house that an arrest warrant was pending against him, accusing him, among other things, of "rioting", "unlawful assembly" and "attempt to murder". His family continued to receive visits of policemen, asking for the whereabouts of Mr. Julfikar Ali. The visits reportedly increased considerably after Mr. Julfikar Ali's met with the UN Special Rapporteur on human rights defenders, on 13 January 2011, during her country visit to India. Under pressure of the aforementioned visits of policemen, Mr. Ali surrendered himself to the District Court on February 11, 2011 with the petitions for the anticipatory bail that were granted on February 11 and then on February 14, regarding the two cases filed against him.

The Observatory condemns the judicial harassment against Mr. Julfikar Ali which seems to merely aim at sanctioning his human rights activities and urges the Indian authorities to guarantee in all circumstances his physical and psychological integrity and to put an immediate end to the judicial harassment against him by dismissing the charges that are still pending in the framework of the two criminal cases mentioned above. The Observatory recalls that cooperation of individuals and groups with the United Nations human rights mechanisms shall not be followed by any kind of reprisals².

¹ Under Indian criminal law, there is a provision for anticipatory bail under Section 438 of the Criminal Procedure Code. When any person has reason to believe that s/he may be arrested on an accusation of having committed a non-bailable offence, s/he may apply to the High Court or the Court of Session for a direction under this section, and that Court may direct that in the event of such arrest s/he shall be released on bail.

² See the Resolution adopted by the Human Rights Council on the cooperation with the United Nations, its representatives and mechanisms in the field of human rights, A/HRC/RES/12/2, October 12, 2009.

Actions requested:

Please write to the authorities of India, urging them to:

- i. Guarantee in all circumstances the physical and psychological integrity of Mr. Julfikar Ali, as well as of all human rights defenders in India;
- ii. Put an end to any acts of harassment - including at the judicial level - against Mr. Julfikar Ali, and more generally against all human rights defenders in India so that they are able to carry out their work without hindrances and fear of reprisals;
- iii. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, in particular with its:
 - Article 1, which provides that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”
 - Article 6(b), which establishes that “everyone has the right, individually or in association with others, as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others, views, information and knowledge on all human rights and fundamental freedoms”
 - Article 12.2 (“the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”);
- iv. More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international and regional human rights instruments ratified by India.

Addresses:

- Shri Manmohan Singh, Prime Minister of India, Prime Minister’s Office, Room number 152, South Block, New Delhi, Fax: + 91 11 2301 6857 E-mal: pmosb@pmo.nic.in
- Dr. P. Chidambaram, Union Minister of Home Affairs, Ministry of Home Affairs, 104-107 North Block, New Delhi 110 001 India, Fax: +91 11 2309 2979. hm@nic.in
- Justice Kapadia, Chief Justice of India, Supreme Court, Tilak Marg, New Delhi -1, Fax: +91 11 233 83792, Email: supremecourt@nic.in
- Justice K. G. Balkrishnan, Chairperson of the National Human Rights Commission of India, Faridkot House, Copernicus Marg, New Delhi 110 001, Tel: +91 11 230 74448, Fax: +91 11 2334 0016, Email: covdnhrc@nic.in ; ionhrc@nic.in
- Ambassador Extraordinary and Plenipotentiary Permanent Representative to the United Nations (Geneva), Rue du Valais 9, 1202 Geneva, Switzerland. Tel: +41 22 906 86 86, Fax: +41 22 906 86 96, Email: mission.india@ties.itu.int
- Embassy of India in Brussels, 217 Chaussée de Vleurgat, 1050 Brussels, Belgium, Fax: +32 (0)2 6489638 or +32 (0)2 6451869

Please also write to the diplomatic representations of India in your respective countries.

Geneva-Paris, February 14, 2011

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.



The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need.

To contact the Observatory, call the emergency line:

- Email: Appeals@fidh-omct.org
- Tel and fax FIDH: +33 (0) 1 43 55 25 18 / 01 43 55 18 80
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