



Commonwealth Human Rights Initiative

New Delhi, India. London, UK. Accra, Ghana

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NGO with Special Consultative Status with the Economic & Social Council of the United Nations

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March 8, 2021

Mr. Manoj Yadava, IPS
Director General of Police, Haryana
Police Headquarter, Sector 6
Panchkula
Haryana

Sub: Urging action on the alleged illegal detention, abduction, custodial torture and assault of labour rights activist, Mr. Shiv Kumar

Dear Sir,

We write to you from the Commonwealth Human Rights Initiative (CHRI). CHRI is a non-governmental organisation that has been working on issues of better policing in India for nearly two decades (www.humanrightsinitiative.org).

This letter is regarding the alleged custodial torture, illegal detention, and arbitrary arrest of Mr. Shiv Kumar by the Crime Investigation Agency, Sonipat, and the police personnel of Kundli police station, Sonipat, Haryana. Even as Shiv Kumar has been released from Sonipat jail on bail, we urge for an independent and prompt investigation into the serious allegations levelled against Haryana police personnel with a view to hold the concerned officials accountable for violations committed.

Mr. Shiv Kumar's medical examination ordered by the Punjab and Haryana High Court has brought to light his illegal detention, and the torture meted out to him in custody. According to Mr. Kumar's statement in the medical report, he was picked up / abducted by the staff of Crime Investigation Agency (CIA), Sonipat, between 2.30 p.m. and 3 p.m. from Singhu on 16th January 2021, where he was participating in the ongoing farmers' protest. His family has also claimed that he was arrested on 16 January, that they were informed of his arrest only on 31 January, 15 days after his actual arrest, and that he has not been given access to any lawyer during custody.

Official records, however, show that he was arrested on 23 January 2021. Mr Ravi Kumar, SHO of Kundli police station, has also claimed that Shiv Kumar was arrested only on 23 January and that his family was informed of his arrest.

We call for an immediate review of the grounds and circumstances of Shiv Kumar's arrest to ascertain the illegalities and procedural violations. As you would agree, Shiv Kumar and his family's statements indicate that the Kundli police station held him in illegal custody for more than a week. The statements also indicate that the police did not follow arrest procedures, violating Section 41B and 41D of the Code of Criminal Procedure 1973.

The report of the medical board details the injuries. The following is an excerpt from the medical report, which was submitted to the Punjab and Haryana High Court on February 23, 2021:

"He was taken to the old kacheri, Sonapat where C.I Staff assaulted him. Both his feet were tied and he was laid on the ground. The police then hit him on the soles of his feet. His 2nd, 3rd and 5th toe nails of the right foot were torn and the nail of the big toe on the left foot turned blue. They also hit him on buttocks with flat sticks, then they tied his hands and stretched his legs. He was made to lie on the ground with both legs straight and a metal pipe was placed on his legs. He was made to lie on the ground with both legs straight and a metal pipe was placed on his thigh and rolled over his thighs by two people. They also hit him on both hands and palms and also on the back of his head. He was not allowed to sleep for three days, the C.I staff took his statement and asked him to give names and when he could not so, they tied him to a chair and poured water to his head....He was mentally and physically abused in the police remand and they also poured hot water on his feet and any blisters that were formed were burst by them."

The medical report has stated that all injuries were more than two weeks old which is when he was in he was in the custody of the Haryana police. The medical report has also listed out all the injuries inflicted on him which include two fractures – one of the second digit of the left hand and one on the base of his right foot. Two possible fractures – one on his left foot and one on his right wrist. The medical report also states nails of the left thumb and index finger showing “bluish black discolouration”, nail beds of 2nd and 3rd toe are broken and the underlying skin is reddish in colour and showing healing changes, swelling on the base of the right foot.

Mr Shiv Kumar, who belongs to the Scheduled Caste, has further claimed that the police hurled caste abuses at him while in custody ([Indian Express, 5 March](#)). This amounts to an offence under Section 3(1)(r),(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is a matter of great concern that such unlawful policing methods, amounting to torture and a violation of the right to life guaranteed under Article 21 of our Constitution, continue to take place. The minute Mr. Shiv Kumar was taken into custody, his well-being and safety was the responsibility of the Haryana Police. Instead, as per the medical report, he has injuries, fractures and bruises all over his body.

Given the seriousness of the allegations against specific Haryana police personnel, and evidence available in the form of the medical report in support, we believe that an internal departmental inquiry though essential is insufficient. The allegations warrant initiation of legal proceedings against the concerned police personnel in order to enforce accountability. To ensure prompt, impartial and thorough investigation, we specifically urge the following measures:

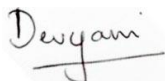
- ✓ Registration of FIR against the concerned police officials, including the SHO, Kundli; District, SP; all personnel of the Kundli police station and the Crime Investigation Agency, Sonipat involved under appropriate sections of the Indian Penal Code including Sections 320, 322, 350, 351, 339, 340, 341, 343, and 166A (a) as well as relevant sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as applicable;
- ✓ Investigation be assigned to an officer of the rank of Deputy Superintendent of Police, as mandated under Rule 7 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, and preferably from another district in the interest of fairness and impartiality;
- ✓ Investigation takes into account a review of adherence with procedures on arrest including whether the arrest memo as required under Section 41B Code of Criminal Procedure 1978 (CrPC) was prepared and countersigned; whether the mandatory medical examination under Section 54 CrPC was carried out; whether a relative or friend was informed as per Section 50A CrPC; and whether access to a lawyer was provided under Section 41D of the CrPC;
- ✓ Investigation be carried out on top priority directly under your supervision, and on completion, the report is reviewed by you such that the charge-sheet is filed within 60 days, in sync with the requirement under the Atrocities Act Rules (Rule 7, as amended in 2016);
- ✓ The concerned officers be put under suspension until the investigation is completed.

Lastly, we further believe that the medical report provides a strong base to undertake a thorough review of internal police processes, including gaps in training and supervision, which enable the perpetration of such unlawful methods, and prioritise suitable reforms. This will send a clear message down the rank that violations of rights and of due process will not be tolerated under your leadership.

We assure you that we write in a spirit of concern and in the knowledge that you and your colleagues believe that violence and unlawful policing have no place in the department.

We look forward to a line in response.

Sincerely,



Devyani Srivastava
Head, Police Reforms Programme