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13th May, 2014

To: The Chief Reporter / Editor – For Favour of Press Coverage

**PUCL Condemns Arrest of Prof. Saibaba
&
Demands Immediate Intervention of NHRC to ensure release of Prof. Saibaba
and ensure medical treatment and care and provision of personal attendant**

PUCL is shocked and strongly condemns the unprovoked and unconscionable use of force by the Gadchiroli police who blocked the car, abducted and arrested Prof. GN Saibaba in broad daylight, on 9th May, 2014 afternoon. Prof. Saibaba, an Assistant Professor of English in Ram Lal Anand College was returning home for lunch around 1 p.m. after completing the morning's work of evaluating University examination papers in North Campus. His car was forcibly stopped by the policemen, all in plainclothes (mufti), without any identification insignia, his driver Deepak pulled out forcibly, arms tied, blindfolded and taken to an undisclosed place.

Prof. Saibaba, who is wheel chair bound with 90% locomotor disability was also treated harshly, blindfolded and whisked away by plain clothed personnel of the Maharashtra Police. It later came to light that Prof. Saibaba had been taken by air to Gadchiroli via Nagpur and remanded to custody in a case involving provisions of the Unlawful Activities Prevention Act (UAPA) carrying allegations that he was helping Maoist activities.

The harsh and violent manner of effecting the abduction and arrest of Prof. Saibaba is unacceptable and condemnable in a democracy claiming to follow rule of law for Saibaba had always cooperated with the police authorities whenever they wanted to question him as part of the investigation. Twice before, once in September, 2013 and next in January, 2014, he made himself available for questioning in his house. In contrast, the conduct of the Gadchiroli police was utterly unlawful, breaking all the mandatory provisions relating to conduct of search and seizure.

During the present arrest also, the Gadchiroli police violated all mandatory provisions relating to arrest. In particular, sec. 41-B of the Criminal Procedure Code makes it compulsory for every police officer making arrest to (a) bear an accurate, visible and clear identification of his name which will facilitate easy identification" and (b) shall prepare a memorandum of arrest which shall be (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made; and (ii) countersigned by the person arrested. Very crucially the section states that the arrested person "has a right" to have a relative or friend named by him to be informed of his arrest unless the Memorandum of Arrest is already attested by his family. (sec. 41-B(b)(c)).

Sec. 50A CrPC makes it obligatory on the part of the police officer to inform about the arrest and the place of custody of the arrested person to (i) relative, or (ii) friend or (iii) person nominated by the arrested person. The fact of this intimation should be recorded in a register which shall be scrutinised by the remanding Magistrate.

None of these mandatory provisions were complied with making the arrest illegal.

The exceptionally harsh, inconsiderate and violent treatment and arrest of Prof. Saibaba is for the reason that he has for long been a human rights defender who has consistently opposed abuse of law by the police and security forces in the name of encounters and asserted the primacy of rule

PUCL Statement on Illegal Arrest of Prof. GN Saibaba on 9th May, 2014

of law' principles as the basis for state action against people and organisations dubbed 'extremist', 'terrorist' or 'maoist'. Saibaba has also been a long term critic of counter-terrorism policy of the government which sought to counter political violence through state violence. For the police, he represented a major threat to their lawlessness and therefore have been trying to somehow implicate him in some case or the other. The present case he has been arrested in involves various sections of the Unlawful Activities Prevention Act (UAPA) which conveniently gives carte blanche powers to the police to use the law like a weapon to crush dissent, stifle criticism and silence opposition to their abuse of law.

PUCL has consistently opposed draconian laws like the UAPA, AFSPA, anti-sedition laws and other laws on the ground that these laws were deliberately structured in such a manner as to arm the state with wide police powers to crush dissent and political opposition using the justification of countering terrorism. In effect these laws have been used for the purpose of criminalising dissent and the legitimate acts of human rights activists and organisations.

PUCL has documented numerous instances where the police action is akin to 'state terrorism' striking down hundreds of innocent people and causing unimaginable misery, all in the name of fighting terror.

The SC poignantly highlights the dangers of state terrorism in the famous case of 'D.K. Basu vs State of West Bengal' (1997) thus:

"The challenge of terrorism must be met with innovative ideas and approach. State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to "terrorism". ***That would be bad for the state, the community and above law to the rule of law***". (pa. 33) (emphasis ours)

In a cruel twist to human rights movements, rights defenders who advocate the legitimacy of extending human rights protection even to those people accused by the state as terrorist, find themselves implicated in false cases as 'terrorists' themselves; similarly those who emphasise that even Maoists, are entitled to 'rule of law' and human rights, suddenly find themselves branded as Maoists and facing danger to their personal safety and well being, apart from prosecution. This is a sinister development which is aimed to silence the human rights defenders and crush the rights movement. Prof. Saibaba is the latest victim of the Maharashtra police's attempts to silence and intimidate anyone from daring to take up the human rights issues of Maoists while continually challenging state terrorism.

PUCL demands that the National Human Rights Commission (NHRC) should immediately intervene in the matter of arrest of Prof. GN Saibaba, launch a comprehensive enquiry into the flagrant illegalities committed by the Gadchiroli police and fix accountability on the police officials who have abused and broken the law of the land.

PUCL is shocked to know that Prof. Saibaba is being kept in solitary confinement and deprived of medicines and personal assistant. He also has been deliberately denied access to western closet causing immense discomfort and further medical complications. In view of the severe 90% locomotor disability and cardiac problem suffered by Prof. Saibaba, the NHRC should immediately intervene to get Prof. Saibaba released from prison so that he can get expert medical attention, utilise the services of a personal attendant and also be able to access toilet facilities adapted to his personal needs. Such a demand is not unreasonable as the SC itself has stressed the importance of "safeguarding the rights and dignity of the arrestee".



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