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|  | ***25 years journey of struggle and reconstruction*****National Alliance of People’s Movements****National Office:** 6/6, Jungpura-B, New Delhi – 110014 **| Ph:** 011-24374535 **Twitter:** @napmindia **|** **E-mail:**  napmindia@gmail.com **|****Blog:** [www.napmindia.wordpress.com](http://www.napmindia.wordpress.com) **|** **Web:** [www.napm-india.org](http://www.napm-india.org)  |

**Araria Arrests: Imprisonment of gang-rape survivor and**

**2 social activists supporting her is arbitrary and reprehensible!**

**Appeal to Higher Judiciary to immediately intervene, quash case and**

**release all 3 persons, jailed in Covid times !**

**17th July, 2020:** National Alliance of People’s Movements (NAPM) is extremely distressed and shocked to know that a young survivor of gang-rape and two other young activists of a social organization and NAPM affiliate, JJSS in Araria Dist. (Bihar) who were assisting the survivor in Court were arrested by the police on 10th July and sent to jail on the Orders of a Magistrate ! It is almost a week since the survivor and the activists, Kalyani and Tanmay have been lodged at the Dalsinghsarai Jail in Samastipur district, in Covid-times! This, even as four of the five alleged rapists have not been apprehended! As the state remains in lockdown, the situation of those arrested remains precarious.

The incident is in the context of activists associated with JJSS providing support to the survivor, who was subject to gang-rape by five men in the first week of July. Jan Jagran Shakti Sangathan, a registered trade union has been organizing thousands of workers in the districts of North Bihar and has been intervening on various matters of social importance in the state. Reportedly, the arrests of the three persons was directed in the midst of the court proceedings, when the survivor recording and signing her statement u/s 164 (1) of Cr.P.C, apparently felt agitated and triggered, wanting the supportive activists to be by her side.

The level of pain and trauma a gang-rape survivor who has been made to recount her horrid experience multiple times experiences, needs no emphasis. Her ‘insistence’ on wanting the activist-care givers by her side during the trial can in no way be perceived as ‘unusual’ or ‘disruptive’! However, far from empathizing with her fragile state of mind and being considerate towards her plea, it is understood that the learned Magistrate took her demeanour as an expression of ‘lack of faith in the Court itself’ and directed criminal and contempt proceedings against her and also the activists who tried to explain her situation, remanding all of them to judicial custody !

It is indeed a cruel irony that instead of promptly acting on the original FIR 59/2020 (the gang-rape case), FIR No. 61/2020 was filed by the same *Araria Mahila Thana* and charges of criminal conspiracy, obstruction of duty and insulting the judicial officer etc have been foisted against the survivor and activists. (Sections 353,188, 228, 120-B of IPC and Contempt of Courts Act). Needless to state, this arrest and jailing of a 22-year-old survivor is likely to have an adverse impact not just on her physical and mental health, but also her faith in the justice system itself! All these developments reveal an absolute lack of sensitivity by the ‘vanguards’ of the criminal justice system, who are expected and mandated to display a sense of utmost responsibility in such matters.

It is also learnt that before being sent to prison, no Covid test was conducted on the survivor, despite she being subject to gang-rape by several strangers, risking her health! Besides, it is also extremely deplorable that the survivor’s details, including her parents’ name and full address was disclosed in the local press, which, not surprisingly, ‘sensationalized’ the news! Shockingly, some journalists also had ‘access’ to confidential case documents which were in the possession of the Court! All of this has clearly compounded the vulnerability of the survivor and the social pressure on her!

Given the very particular circumstances, the incident has attracted nation-wide outrage with hundreds of well-known advocates, almost 7,000 women’s rights activists and concerned citizens and many organizations writing to the Hon’ble Chief Justice of Patna High Court to take immediate cognizance, ensure justice in the matter and institute specific measures for friendly and non-hostile environment in rape and sexual assault cases, in adherence with the recommendations of the Justice Verma Commission. Pointing out the harshness and disproportionate nature of action in the Araria case, the letter by the advocates states that ‘contempt’ cannot lie in a magistrate’s court and non-bailable charges could not have been pressed, even if the survivor ‘insisted’ that the 164 statement be read out to her by care-givers and not court officers.

In their letter to the Chief Justice, feminist groups have rightly pointed out that regardless of the judicial enquiry and trial being in-camera or not, Justice Verma Commission Report requires the state to provide "*support services for shelter, social workers, counsellors mental health professional, lawyers*" and has clearly recognised the need for presence of members of women's organisations or others supporting the survivor, for moral support.

What troubles us is not just the increasing cases of sexual violence against women, trans, queer-identifies persons, but also the disturbing patterns in the criminal justice system, failing to address these issues in a responsible and non-hostile way, despite decades of feminist struggles to make the ‘system’ more sensitive to the hardships, vulnerabilities and needs of sexual violence survivors. While significant strides have been made, leading to some enabling laws, recommendations by Jst. Verma Commission and some good judicial pronouncements by various High Courts and the Supreme Court, ground-situation indicates that a lot more needs to be done to translate the spirit of these provisions and safeguards on paper, into reality.

***The ‘Araria case’, once again, raises many fundamental questions about the role of the police, judiciary, media, the support framework for survivors and their caregivers etc and the need to bring back survivor-specific empathy at the heart of the ‘proceedings’ and ‘procedure’! We are of the considered option that the higher judiciary has an obligation to intervene immediately to undo the harm of this dangerous precedent and ensure present and future survivors receive full support and are not further traumatized and criminalized. The ‘issue’ here is as much about the need for judicial accountability, as it is about a system supportive to those who face gendered violence.***

**NAPM strongly condemns the institutional harassment and arbitrary jailing of the sexual violence survivor and two young activists. We:**

* ***CALL UPON*** *all justice-loving social and political organizations and activists across the country to express solidarity with the survivor and the two saathis of JJSS and demand their immediate release, especially in Covid times and withdrawal of all charges foisted.*
* ***APPEAL*** *to the higher judiciary in the state to intervene immediately in this case with empathy and fairness, but also issue state-specific guidelines to ensure that there is a friendly and non-hostile environment in respect of rape and sexual assault cases, in adherence with the recommendations of the Justice Verma Commission.*
* ***DEMAND*** *fair, fast and dignified judicial process for the survivor, bringing the guilty to book.*
* ***CONDEMN*** *attempts by sections of the media in disclosing the details of the survivor and demand action against them, as per law.*
* ***EXPRESS*** *solidarity with Jan Jagaran Shakti Sangathan, a responsible autonomous people’s trade union working on issues of livelihoods and social justice and condemn any attempts by vested interests to de-legitimize the work of the Sangathan.*

**Medha Patkar,** Narmada Bachao Andolan (NBA) and National Alliance of People’s Movements (NAPM); **Dr. Sunilam, Adv. Aradhna Bhargava,** Kisan Sangharsh Samiti; **Rajkumar Sinha**, Chutka Parmaanu Virodhi Sangharsh Samiti, NAPM, Madhya Pradesh;

**Aruna Roy, Nikhil Dey, Shankar Singh,** Mazdoor Kisan Shakti Sangathan (MKSS), National Campaign for People’s Right to Information; **Kavita Srivastava**, People’s Union for Civil Liberties (PUCL); **Kailash Meena** NAPM Rajasthan;

**Prafulla Samantara,** Lok Shakti Abhiyan; **Lingraj Azad,** Samajwadi Jan Parishad & Niyamgiri Suraksha Samiti, Manorama, Posco Pratirodh Sangram Samiti; **Lingaraj Pradhan, Satya banchor, Anant, Kalyan Anand, Arun Jena, Trilochan Punji, Lakshimipriya Mohanty and Balakrishna Sand, Manas Patnaik**, NAPM Odisha;

**Sandeep Pandey**(Socialist Party of India); **Richa Singh &** **Rambeti** (Sangatin Kisaan Mazdoor Sangathan, Sitapur); Rajeev Yadav & Masihuddin bhai (Rihai Manch, Lucknow & Azamgadh)**; Arundhati Dhuru & Zainab Khatun**(Mahila Yuva Adhikar Manch, Lucknow), **Suresh Rathaur**(MNREGA Mazdoor Union, Varanasi); **Arvind Murti & Altamas Ansari** (Inquilabi Kamgaar Union, Mau),**Jagriti Rahi**(Vision Sansthan, Varanasi); **Satish Singh**(Sarvodayi Vikas Samiti, Varanasi);**Nakul Singh Sawney**(Chal Chitra Abhiyan, Muzaffarnagar); NAPM Uttar Pradesh

**P. Chennaiah,** Andhra Pradesh Vyavasaya Vruthidarula Union-APVVU, **Ramakrishnam Raju,** United Forum for RTI and NAPM, **Chakri** (Samalochana), **Balu Gadi**, **Bapji Juvvala**, NAPM Andhra Pradesh;

**Jeevan Kumar & Syed Bilal** (Human Rights Forum), **P. Shankar** (Dalit Bahujan Front), **Vissa Kiran Kumar & Kondal**(Rythu Swarajya Vedika), **Ravi Kanneganti** (Rythu JAC), **Ashalatha** (MAKAAM), **Krishna**(Telangana Vidyavantula Vedika-TVV), **M. Venkatayya** (Telangana Vyavasaya Vruttidarula Union-TVVU), **Meera Sanghamitra, Rajesh Serupally**, NAPM Telangana;

**Sister Celia,** Domestic Workers Union; **Maj Gen (Retd) S.G.Vombatkere**, NAPM, **Nawaz, Dwiji, Nalini,**NAPM Karnataka

**Gabriele Dietrich,** Penn Urimay Iyakkam, Madurai; **Geetha Ramakrishnan,** Unorganised Sector Workers Federation; Suthanthiran, **Suthanthiran, Lenin** & **Arul Doss,**NAPM Tamilnadu;

**Vilayodi Venugopal, CR Neelakandan, Prof. Kusumam Joseph, Sharath Cheloor,** **Vijayaraghavan Cheliya, Majeendran, Magline,** NAPM, Kerala;

**Dayamani Barla,**Aadivasi-Moolnivasi Astivtva Raksha Samiti; **Basant Hetamsaria, Aloka Kujur,** **Dr. Leo A. Singh, Afzal Anish, Sushma Biruli, Durga Nayak, Jipal Murmu, Priti Ranjan Dash, Ashok Verma**, NAPM Jharkhand;

**Anand Mazgaonkar, Swati Desai, Krishnakant, Parth,**Paryavaran Suraksha Samiti; **Nita Mahadev, Mudita,**Lok Samiti; **Dev Desai, Mujahid Nafees, Ramesh Tadvi, Aziz Minat** and **Bharat Jambucha**, NAPM Gujarat;

**Vimal Bhai,** Matu Jan sangathan; **Jabar Singh,** **Uma**, NAPM, Uttarakhand;

**Manshi Asher** and **Himshi Singh,** Himdhara, NAPM Himachal Pradesh

**Eric Pinto, Abhijeet, Tania Deavaiah** and **Francesca**, NAPM Goa

Gautam**Bandopadhyay,**Nadi Ghati Morcha; **Kaladas Dahariya,**RELAA, **Alok Shukla** NAPM Chhattisgarh;

**Samar Bagchi, Amitava Mitra**, **Binayak Sen, Sujato Bhadro, Pradip Chatterjee, Pasarul Alam, Amitava Mitra, Tapas Das, Tahomina Mandal, Pabitra Mandal, Kazi Md. Sherif, Biswajit Basak, Ayesha Khatun, Rupak Mukherjee, Milan Das, Asit Roy, Mita Bhatta, Yasin, Matiur Rahman, Baiwajit Basa,** NAPM West Bengal;

**Suniti SR, Sanjay M G, Suhas Kolhekar, Prasad Bagwe,** Mukta Srivastava, Yuvraj Gatkal, Geetanjali Chavan, **Bilal Khan,** Jameela, Ghar Bachao Ghar Banao Andolan; Chetan Salve, Narmada Bachao Andolan, NAPM Maharashtra; Pervin Jehangir.

**Faisal Khan,**Khudai Khidmatgar, **J S Walia,** NAPM Haryana;

**Guruwant Singh,** NAPM Punjab;

**Kamayani Swami, Ashish Ranjan,** Jan Jagran Shakti Sangathan; **Mahendra Yadav,**Kosi Navnirman Manch; **Sister Dorothy,**Aashray Abhiyan, NAPM Bihar;

**Rajendra Ravi**, NAPM; **Bhupender Singh Rawat**, Jan Sangharsh Vahini; **Anjali Bharadwaj** and **Amrita Johri**, Satark Nagrik Sangathan;  **Sanjeev Kumar**, Dalit Adivasi Shakti Adhikar Manch; **Anita Kapoor**, Delhi Shahri Mahila Kaamgaar Union; **Sunita Rani**, National Domestic Workers Union; **Nanhu Prasad**, National Cyclist Union; **Madhuresh Kumar, Priya Pillai, Aryaman Jain, Divyansh Khurana, Evita Das; Anil TV**, Delhi Solidarity Group, **MJ Vijayan** (PIPFPD) *For any further details, please e-mail:* *napmindia@gmail.com*