

**IN THE SUPREME COURT OF INDIA
(CRIMINAL ORIGINAL JURISDICTION)
WRIT PETITION (Cr.L.) NO. 229 OF 2019**

(A petition for the writ of Habeas Corpus under Article 32 of the
Constitution of India)

IN THE MATTER OF:

Sitaram Yechury

...Petitioner

Versus

Union of India & Ors.

... Respondents

**AFFIDAVIT OF THE PETITIONER PURSUANT TO THE ORDER
OF THIS HON'BLE COURT DATED 28.08.2019.**

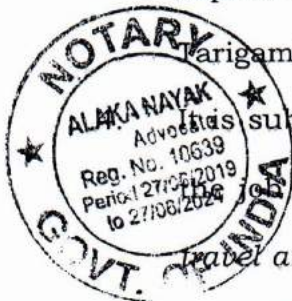
I, Sitaram Yechury, S/o Late Sh. S. S. Yechury, aged about 67 years, C/o A.K. Gopalan Bhawan, 27-29, Bhai Vir Singh Marg, New Delhi-110001 do hereby state on solemn affirmation as follows:

1. I am the Petitioner in the present Petition and I am filing this report in the form of an affidavit pursuant to this Hon'ble Court's order dated 28.08.2019.

Pursuant to the order dated 28.08.2019, on 28.08.2019 the deponent contacted the officer identified in the report, namely Mr. Mir Imtiyaz Hussain, Senior Superintendent of Police, Security in the State of Jammu & Kashmir to discuss his travel to Kashmir to meet Mr. Tarigami. The Deponent indicated that as he is presently nursing a physical injury, he would require a personal assistant to accompany him on this trip and the same was agreed upon by the officer. The Deponent indicated to the concerned officer that he would be travelling on Indigo Airlines Flight 6E 2136 on 29.08.2019, which departs from

Delhi at 09.55 a.m. and has a scheduled arrival at Srinagar at 11.30 a.m.

3. On 29.08.2019, the Deponent along with his personal assistant travelled by the abovementioned flight and arrived at Srinagar airport. No sooner had he got out of the aircraft, within the aerobridge itself, two police officers approached him and took him to a room in the airport arrival area, where the identified officer Mr. Imtiyaz met him. The officer, Mr. Imtiyaz indicated that he would take the deponent to meet his colleague and friend, Mr. Tarigami and also indicated that thereafter he would bring the deponent back to the airport to take one of the flights back to Delhi that depart around 5 pm. The deponent indicated to Mr. Imtiyaz that whether or not he would return the same evening would depend on his assessment of the health condition of Mr.



Tarigami, which can be assessed only after meeting him.

It is submitted that as per the order of this Hon'ble Court,

the role of the respondent authorities was to "facilitate the

travel and help the petitioner in locating the whereabouts of

Mr. Tarigami, the petitioner's friend and colleague party

member, if required". The role of the Respondent authorities

was strictly restricted to identifying the location of Mr.

Tarigami and facilitating the visit to the extent necessary.

Therefore, it would have sufficient for the authorities to

simply indicate that Mr. Tarigami is at his home at Gupkar

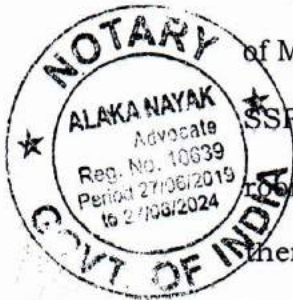
Road and that the deponent could have on his own travelled

to the said location to meet him. However, the authorities insisted that the deponent move only with them and as would be detailed in the affidavit hereinafter. Thus, right from the point when the deponent landed in Srinagar, up until the point he boarded the return flight to Delhi, the deponent was not allowed to move on his own to meet Mr. Tarigami.

5. The deponent along with his personal assistant was asked to board a high-security car which had a cavalcade of cars and security personnel both in its front and rear. This cavalcade of cars then proceeded to Mr. Tarigami's house at Gupkar Road in downtown Srinagar.

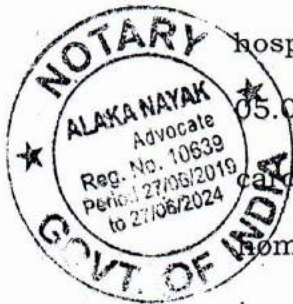
6. On reaching the house of Mr. Tarigami, on or about 12.30 pm, the deponent met Mr. Tarigami, who was very pleased and relieved to see the deponent. He sat in the drawing room of Mr. Tarigami. For the first hour, the concerned officer, the SSP Mr. Imtiyaz, was also sitting uninvited in the drawing room along with the deponent and Mr. Tarigami, although there was no need for him to be present there.

7. During this period when the concerned officer, Mr. Imtiyaz was present in the room, the deponent herein inquired from him the charges and the provisions of law under which Mr. Tarigami was being detained in his house. The concerned officer indicated that there were no legal charges against Mr. Tarigami, and that he has not been detained and that he is "free". Mr. Tarigami thereafter indicated in the officer's



presence that the security vehicles of his Z+ security have been withdrawn, and that although no order of detention had been shown to him, his security has been instructed by the authorities not to allow him or his family members to move out of the house or allow any person from outside to enter the house for the last 25 days. These instructions were being strictly followed and thus, neither he nor his family members were allowed to go out of the house nor anyone was allowed to enter the house to meet him. He and his family were in "de facto" house arrest.

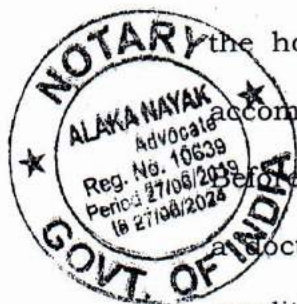
8. Mr. Tarigami informed the deponent that he had his last regular visit to Sher-i-Kashmir Institute of Medical Sciences, Srinagar (hereinafter "SKIMS") on 31.07.2019. In that medical visit, his doctors advised him to undergo certain follow-up investigations. However, he could not attend the hospital thereafter as he has been detained in his house from 05.08.2019. Upon repeated requests to the authorities, one cardiologist and endocrinologist were allowed to make a home visit on 19.08.2019 and suggested multiple investigations for the cardiac and diabetic status of Mr. Tarigami. Mr. Tarigami was however finally allowed to visit SKIMS only once on 24.08.2019, under security cover after multiple requests and follow ups to the authorities. However, on that date, the tests related to diabetic status could not be carried out due to non-availability of treating



endocrinologist. He indicated that he continues to suffer from the following conditions at present:

- a. Diabetes for which he takes insulin injections and other medicines and as per the last test, his sugar levels were not under control;
- b. Coronary Artery Disease for which he already has a stent in his coronary arteries;
- c. Other heart complications because of which he has a pacemaker;
- d. Chronic Obstructive Pulmonary Disease, which has impacted his lungs;
- e. Bronchiectasis- which is a severe and permanent inflammation in the lungs;
- f. Numbness in left hand.

9. Subsequently, the deponent had to request Mr. Imtiyaz to leave the room, and only thereafter the concerned officer left



the house of Mr. Tarigami, while the security entourage accompanying the deponent remained outside the house.

Before Mr. Imtiyaz left the house, the deponent insisted that a doctor carry out a thorough evaluation of the medical condition of Mr. Tarigami before the deponent returned to Delhi. After making some enquiries, Mr. Imtiyaz indicated that a doctor can be arranged only on the next morning, i.e. 30.08.2019. The deponent assumed that he could stay at the house of Mr. Tarigami overnight. However, the concerned officer Mr. Imtiyaz indicated that as no one can enter or exit

the house of Mr. Tarigami, the deponent cannot stay in his friend's house overnight and arrangements would be made in some government guest house for him to spend the night.

10. The wife of Mr. Tarigami, as also his other family members, were quite concerned about his health and in particular his inability to get proper medical attention presently at Srinagar. Mr. Tarigami and his wife have both authorized the deponent to continue the present Habeas Corpus petition and have further authorized the deponent to request this Hon'ble Court to ensure that Mr. Tarigami is brought to AIIMS, New Delhi for his regular check up for a proper and thorough assessment of his multiple health conditions and diseases.

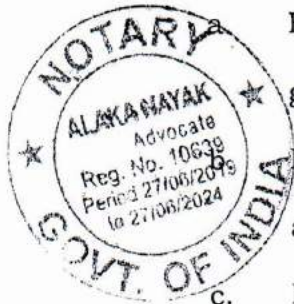
11. Mr. Tarigami further indicated the following issues that he is facing relating to his welfare:

He and his family including his children and grandchildren are in de facto house arrest.

Neither is anyone allowed to enter their house, nor is anybody from inside the house allowed to go outside.

c. Provisions for the house, etc. are brought by the security officers.

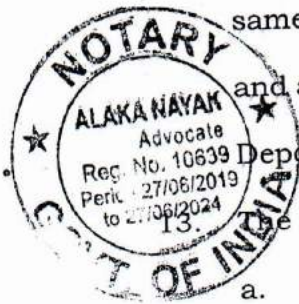
d. He has no means of communicating with his family or friends in the rest of Srinagar, Kashmir, or India, as neither mobile networks nor landline networks are working. Even both the landlines in his house are non-functional. This makes it difficult to even seek



emergency medical help. He has also been unable to contact his regular doctor who is familiar with his medical history, many medical conditions, and complications which may arise.

e. There is a shortage of money and cash available with the family in view of their own house arrest and also the general lockdown.

12. Thereafter, at about 4.30 pm in the evening on 29.09.2019, the Deponent was taken in the security convoy to a government guesthouse next to the Jhelum river, where he spent the night. In the morning at around 7.30 a.m. he was taken by the authorities to the house of Mr. Tarigami once again where a doctor, who does not want his name disclosed, was brought. After the examination was concluded, the doctor noted the medical history of Mr. Tarigami and the same was typed on a computer in the house of Mr. Tarigami, and an unsigned copy of the same given to the Deponent, the Deponent proceeded to the airport to take a flight to Delhi. The medical report of the doctor confirms that:



- a. Diabetic status check of Mr. Tarigami could not be carried out due to non-availability of endocrinologist.
- b. Mr. Tarigami has a case of Bronchiectasis, which is under continuous follow up at AIIMS New Delhi with the present director AIIMS and
- c. His chest status could not be evaluated at that time.

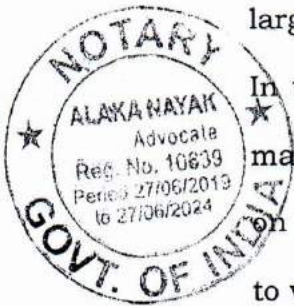
A true copy of the unsigned report prepared by the doctor on the morning of 30.08.2019 along with the past medical report of Mr. Tarigami both at AIIMS New Delhi as also at Jammu and Kashmir is annexed herewith as **Annexure 1** at pages 10 to 37.

14. From the entire visit, stay, and interaction, it was clear to the Deponent, that the unlawful detention of Mr. Tarigami and other restrictions imposed on his family such as uncertainty about communication and access to medical and emergency assistance have aggravated his severe and chronic health conditions and also had an impact on the mental health of him and his family.

15. The state authorities booked the flight ticket from Srinagar to Delhi by GO Air Flight G8 129 departing Srinagar at 11.10 am. On arrival at the Delhi airport, the media was present in large number and the deponent faced a barrage of questions.

In this situation, the deponent indicated that he would be making a report to the Supreme Court and that the situation on the ground to the extent he saw was completely contrary to what the government is indicating.

16. The deponent also wishes to bring on record that apart from his Del-Srinagar ticket which he purchased himself, he paid his bill at the government guest house and has also paid in cash for the return flight ticket, which was arranged by the government. The cash was handed over to the person who handed over the tickets to the deponent and his assistant.



- 17. The deponent further seeks the liberty of this Hon'ble Court to place on record my observations based on what I have observed within the restricted circumstances of my visit.
- 18. The deponent further seeks the liberty of this Hon'ble Court to pursue the main relief sought in the present writ petition, namely a writ of habeas corpus for securing the release of Mr. Mohammad Yousuf Tarigami.
- 19. That the Annexures are true copies of the respective originals.

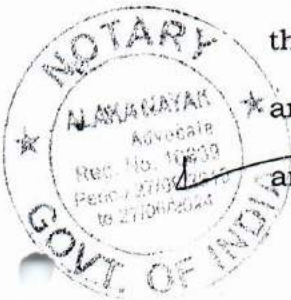
02 SEP 2019

Identified by
S/Secy
D/2210/06.

[Signature]
DEPONENT

Verification:

Verified at New Delhi on this 2nd day of September, 2019 that the contents of my above affidavit from paras 1 to 19 are true and correct to my personal knowledge and no part of it is false and nothing material has been concealed therefrom.



Identified by
S/Secy
D/2210/06.

[Signature]
DEPONENT

I identified the deponent who has signed in my presence

CERTIFIED THAT THE DEPONENT
Shri / Smt. / Hon. *[Signature]*
S/o, V/o, P/o *[Signature]*

I identified by Shri / Smt. *[Signature]*
Has solemnly affirmed before me at
Delhi on *[Date]* as St. No. *[Number]*
That the contents of the affidavit which
have been read & explained to
him are true & correct to his knowledge

NOTARY

02 SEP 2019