

PUBLIC

AI Index: ASA 37/002/2003

UA 212/03

Fear for safety/ fear of torture

14 July 2003

SRI LANKA

**Nandini Herat (f)
Herat Mudiyansele Herat Banda (m), her father
Other family members (names unknown)**

Nandini Herat is being detained at Kandy remand prison in Kandy district, while awaiting trial proceedings on a charge of theft. Amnesty International fears that there may be reprisals against her and her family after the Officer in Charge (OIC) of the Wariyapola police in Kurunegala district was charged with torturing Nandini Herat in detention.

On 8 March 2002, Nandini Herat was arrested on suspicion of theft; a charge which she has denied. While in the custody of the Wariyapola police, she was subjected to sexual torture. In August 2002, six police officers, including the OIC of the Wariyapola police, were charged in the Magistrates' Court with her torture, but no trial took place and the police officers were not suspended from duty. Subsequently, on 14 July 2003, the OIC of Wariyapola police was charged in the High Court under the Sri Lanka Torture Act of 1994. He has been released on bail despite the fact that Section 2 (5) of the Torture Act specifies that such a charge is an unailable offence. It is believed that the other five officers reportedly involved in the torture of Nandini Herat, of whom one is a female police constable, may be formally charged on 15 July.

Nandini Herat and her father Herat Mudiyansele Herat Banda have repeatedly been threatened and intimidated by police in an attempt to force them to withdraw the allegations of torture (see UA 281/02, ASA 37/014/2002, 10 September 2002, and follow-ups). They have also been offered money if they withdrew the case. They have made a number of complaints about the harassment they have faced, including to the Deputy Inspector General of Police, but have not received any assurances that the complaint would be investigated. It is thought they may be in increased danger following the indictment of the Wariyapola OIC, and the possible forthcoming charges against the five other police officers.

The theft case against Nandini Herat is set to continue for some time, after police claimed they had not concluded their investigations. Nandini Herat was remanded in the custody of the Magistrates' Court, and in a serious breach of legal protocol, the magistrate in charge of the case granted a police request to amend the charge sheet and call new witnesses, even though the trial was in progress. Amnesty International fears that the slow progress of this trial is part of a deliberate attempt to increase the pressure on Nandini Herat to drop the allegations of torture against the six police officers.

On 1 July, Nandini Herat was not produced in court for an extension of her remand period. Under Sri Lankan law, an extension for the renewal of remand of a detainee must take place every 14 days and the detainee must be produced in court. Since Nandini Herat has not been produced in court, her continued detention may therefore be illegal.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern for the safety of Nandini Herat, who is currently held at Kandy remand prison;
- expressing concern for the safety of Nandini Herat's father, Herat Mudiyansele Herat Banda and other family members, who have been intimidated in an attempt to force them to withdraw their complaint against Wariyapola police officers alleged to be involved in Nandini Herat's torture and ill-treatment in custody in March 2002;
- urging the authorities to immediately investigate the threats and intimidation of both Nandini Herat and her father, to make the results of the investigation public, and to bring to justice those responsible;

- calling on the authorities to take immediate steps to guarantee the safety of Nandini Herat and her family, in accordance with their wishes;
- expressing concern at the granting of permission to police to amend the charge sheet against Nandini Herat and remand her in custody once again;
- expressing concern that Nandini Herat may be detained illegally, and calling on the authorities to adhere to Sri Lankan law by ensuring the detainee is produced in court before an extension to the remand period is granted.

APPEALS TO:

President Chandrika Bandaranaike Kumaratunga
Presidential Secretariat
Colombo 1
Sri Lanka

Telegram: President Kumaratunga, Colombo, Sri Lanka
Fax: + 94 1 333 703
Salutation: Your Excellency

The Hon Ranil Wickremasinghe
Prime Minister
Prime Minister's Office
58 Flower Road
Colombo 7
Sri Lanka

Telegram: Prime Minister Wickremasinghe
Fax: + 94 1 575 454
Salutation: Dear Prime Minister

The Hon W J M Lokubandara
Minister of Justice
Ministry of Justice, Law Reform and National Integration
Superior Courts Complex
Colombo 12
Sri Lanka

Telegram: Minister of Justice Lokubandara, Colombo, Sri Lanka
Fax: + 94 1 424 447
Salutation: Dear Minister

K C Kamalasinghe
Attorney General
Attorney General's Department
Hulftsdorp
Colombo 12
Sri Lanka

Telegram: Attorney General Kamalasinghe, Colombo, Sri Lanka
Fax: + 94 1 436 421
Salutation: Dear Attorney General

Mr T Anandaraja
Inspector General of Police
Sri Lanka Police Headquarters
New Secretariat
Colombo 1
Sri Lanka

Telegram: Inspector General Police, Colombo, Sri Lanka
Fax: + 94 1 438 915
Salutation: Dear Inspector General

COPIES TO: Diplomatic representatives of Sri Lanka accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 25 August 2003.