

**PUBLIC**

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**Imminent Execution/Unfair trial**

**INDIA**

**Davinder Pal Singh Bhuller (m)**

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Amnesty International is concerned that Davinder Pal Singh Bhuller may be facing imminent execution. His death sentence, handed down in an apparently unfair trial, was upheld by the Supreme Court in August 2002. His only hope of clemency now lies in a mercy petition filed with the Indian President, A J P Abdul Kalam, who has the power to commute the sentence.

Davinder Pal Singh Bhuller was sentenced to death on 29 August 2001 after being found guilty of involvement in the 1993 bombing of the Youth Congress Office in the capital, New Delhi. Twelve people were killed and 29 injured in the blast. Davinder Pal Singh Bhuller sought political asylum in Germany, but was forcibly returned to India, where he was arrested on arrival at New Delhi airport in January 1995.

There are serious concerns that Davinder Pal Singh Bhuller may not have been given a fair trial. He was arrested under the now-lapsed Terrorist and Disruptive Activities (Prevention) Act, which has no provision for appeals to the High Court. He was found guilty solely on the strength of an unsubstantiated confession he made in police custody, allegedly under intense police pressure, which he later retracted. A second defendant in the case was acquitted because the only evidence against him was Davinder Pal Singh Bhuller's confession.

Davinder Pal Singh Bhuller appealed against the death sentence in December 2001, but the appeal was rejected by a three-member bench of the Supreme Court. This was not a unanimous decision, because the most senior of the three judges found the accused not guilty and directed that he should be released. In general, in cases of a split decision, the death penalty is not handed down. However, while the Supreme Court was considering Davinder Pal Singh Bhuller's appeal, armed militants attacked the Lok Sabha (the lower house of the Indian parliament) on 13th December 2001. Observers believe that heightened rhetoric about the threat of "terrorism" in India and a hardening of government policies may have influenced the judges' decision.

A review petition was filed in the Supreme Court in December 2002, questioning the legitimacy of the rejection of Davinder Pal Singh Bhuller's appeal. The review petition was heard by the same three judges, who upheld their original decision. It was again a majority decision, with the same senior judge again expressing dissent.

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

- urging that the President immediately commutes the death sentence imposed on Davinder Pal Singh Bhuller;
- pointing out the controversial nature of the two decisions made by the Supreme Court;
- expressing unconditional opposition to the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and emphasizing that the death penalty has never been shown to have a special deterrent effect;
- reminding the President of the United Nations (UN) Commission on Human Rights resolution of April 1999 that governments should establish a moratorium on executions.

**APPEALS TO: (You may difficulties when trying to fax India, please be persistent)**

His Excellency A J P Abdul Kalam

The President of India

Office of the President

Rashtrapati Bhavan

New Delhi 110 004

India

**Fax: + 91 11 23017290 / 23017824**

**Salutation: Dear President**

**COPIES TO:**

Mr Soli Sorobjee

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India

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**Salutation: Dear Mr Attorney General**

and to diplomatic representatives of India accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 5 March 2003.