

Authorities entrap and imprison witness on fabricated charges

HRWF (13.04.2017) - On January 18, 2017, Kazakhstan's National Security Committee arrested and imprisoned Teymur Akhmedov for talking to others about his religious beliefs. During May and June 2016, seven men invited Teymur to a rented apartment, claiming to be interested in the beliefs of Jehovah's Witnesses. They also met at Teymur's home later in the year. Unbeknownst to Teymur, these seven "Bible students" covertly video recorded their conversations.

Based on these peaceful religious discussions, Teymur was charged with "inciting religious discord" and "advocating [religious] superiority." As of 13 April 2017, he was in pretrial detention, but he faces a 5- to 10-year prison term if found guilty.

Teymur, who is 60 years old, is married and has a cancer. His attorneys expect that the appeal from the pretrial detention order will be heard during the week of January 23, 2017.

Ruling on 20 January 2017 in Astana (Translation from Russian)

Examining Judge A. I. Isayeva of District Court No 2 in the Saryarka District of the city of Astana, in the presence of court session clerk A. Yelaman, with the participation of Prosecutor K. Tileuzhan of the department of the prosecutor's office for the Saryarka District of the city of Astana and with the participation of defence lawyer N. A. Kononenko, considered in open court session the motion of the director of the operational investigative group, Senior Investigator of the Department of Internal Affairs of the Investigative Directorate of the Astana City Department of the National Security Committee (KNB), Major of National Security M. M. Duskaziyev, requesting that preventive measures in the form of detention be imposed on suspect Teymur Sultan ogly Akhmedov, born 7 May 1956 in the Republic of Azerbaijan, citizen of the Republic of Kazakhstan, ethnic Azeri, higher education, no prior convictions, married, residing at g. Astana, ul. Bartolda (Kutuzova), d. 48, suspected of committing the crime specified in Article 174(2) of the Criminal Code of the Republic of Kazakhstan ('Criminal Code') and detained on 18 January 2017 at 9:51 a.m. under Articles 128-131 of the Criminal Procedural Code of the Republic of Kazakhstan (CrPC),

ESTABLISHED:

On 20 January 2017 the court received a motion from the director of the operational investigative group, Senior Investigator of the Department of Internal Affairs of the Investigative Directorate of the Astana City Department of the National Security Committee, Major of National Security M. M. Duskaziyev, requesting that preventive measures in the form of detention be imposed on suspect Teymur Sultan ogly Akhmedov, born 7 May 1956, because he is suspected of committing a grave criminal offense and, if left at large, could hide from the pre-trial investigation agency and the court, obstruct an objective investigation of the case, and continue to engage in criminal activity.

On 18 January 2017 Teymur Sultan ogly Akhmedov was declared a suspect in a criminal case.

On 18 January 2017 Teymur Sultan ogly Akhmedov was detained under Articles 128-131 of the CrPC at 9:51 a.m.

The 19 January 2017 ruling of the director of the operational-investigative group, Senior Investigator of the Department of Internal Affairs of the Investigative Directorate of the Astana City Department of the National Security Committee, Major of National Security M.

M. Duskazyev, classified the actions of Teymur Sultan ogly Akhmedov under Article 174(2) of the Criminal Code.

This motion was supported by the first deputy Astana City Prosecutor, Senior Counsellor of Justice T. K. Suleymenov, and sent to the court along with the attached materials on 20 January 2017.

Having heard the prosecutor, who supported the motion for preventive measures in the form of detention, and having heard the suspect and his defence lawyer, N. A. Kononenko, who held that the motion should be denied and that preventive measures in the form of house arrest could be imposed, the court finds as follows.

According to Article 147(1)(6) of the CrPC, detention is imposed as a preventive measure only by court order and only on accused persons suspected of deliberately committing crimes for which the law stipulates punishment by deprivation of liberty for at least five years.

According to the materials submitted by the criminal investigation agency, Teymur Sultan ogly Akhmedov is suspected of committing a grave criminal offence, and the punishment specified in Article 174(2) of the Criminal Code is deprivation of liberty for five to ten years.

This crime presents a danger to the public in that it violates a fundamental constitutional principle, the principle of equality. Observance of this principle is one of most important conditions for the existence and development of any civilised society. The object against which the crime was committed is the principle of international law and the constitutional principle that the incitement of social, ethnic, clan, racial, class or religious enmity or discord must not be allowed.

In court session the defence lawyer made a motion for preventive measures in the form of house arrest to be imposed because her client suffers from cancer.

A report from the National Scientific Centre for Oncology and Transplantation was submitted in court session. The report stated that patient Teymur Sultan ogly Akhmedov's chart had been studied. He has been diagnosed with an 8 cm villous adenoma of the rectum, class II haemorrhage and posthemorrhagic anaemia. The report recommends an operation and requests that he undergo an examination before being hospitalised.

This report is a recommendation, requesting that, if no contraindications are revealed by the examination, the patient be registered on the patient portal for hospitalisation in the surgery department of the National Scientific Centre for Oncology and Transplantation.

However, the defence did not submit any documents proving that it was impossible for the suspect to be in detention due to his illness.

Therefore, the court denies the defence lawyer's motion to impose preventive measures in the form of house arrest. Considering that Teymur Sultan ogly Akhmedov is suspected of committing a grave criminal offence for which the law specifies punishment of up to ten years and the crime falls under the category of grave crimes, the court has grounds to believe that if he is left at large, he could hide from the pre-trial investigation agency and the court, obstruct an objective investigation of the case, and continue to engage in criminal activity. Therefore the court finds no grounds for denying the investigator's motion and imposes preventive measures on Teymur Sultan ogly Akhmedov in the form of detention.

On the basis of the foregoing and guided by Articles 147 and 148 of the CrPC,

RULED:

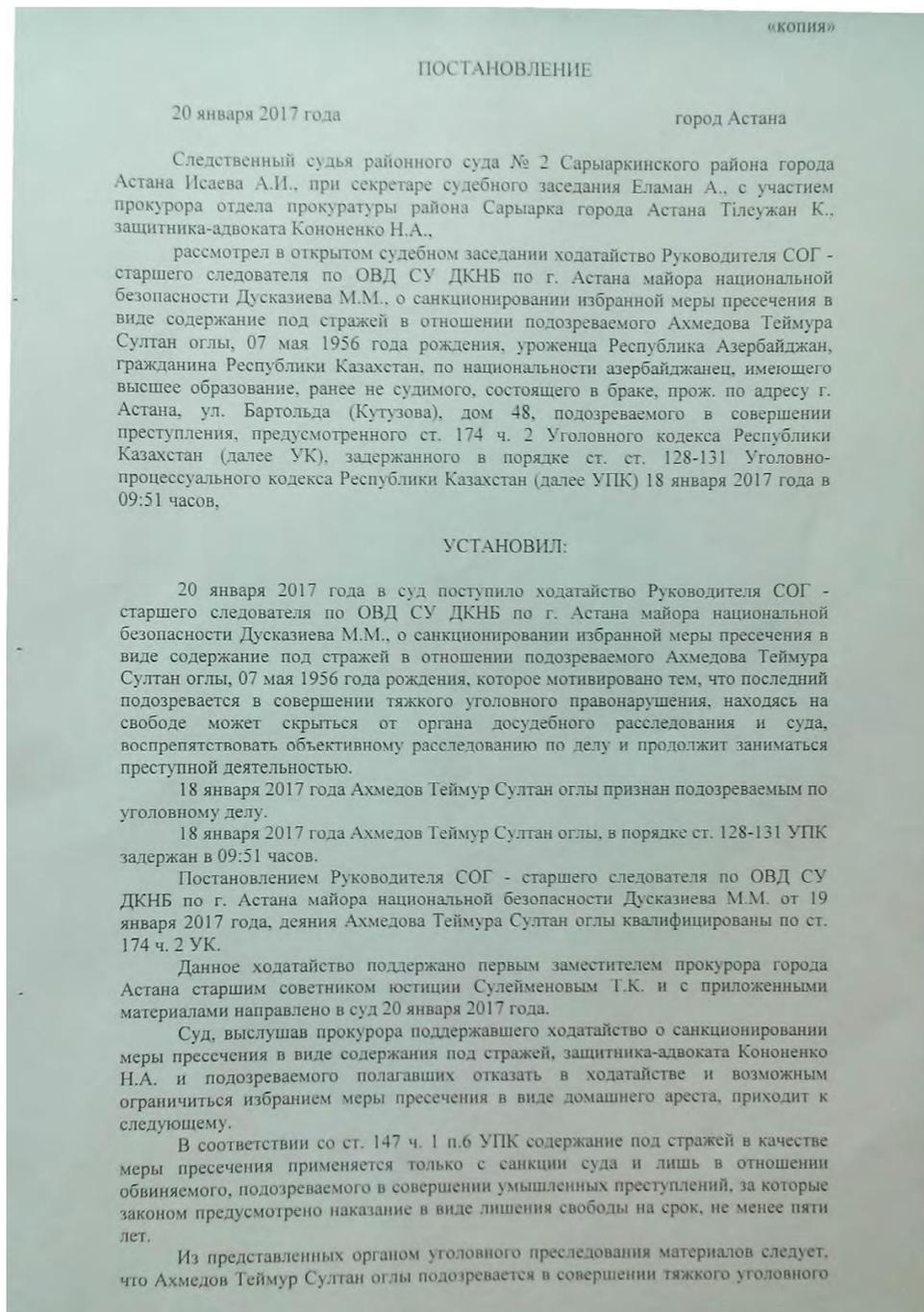
To impose preventive measures in the form of detention for two (2) months, that is, through and including 18 March 2017, on Teymur Sultan ogly Akhmedov, born 7 May 1956.

This ruling can be appealed or protested to the Astana City Court through District Court No 2 in the Saryarka District of the city of Astana within three days from when it is announced.

Examining Judge A. I. Isayeva

Examining Judge [seal and signature] A. I. Isayeva

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правонарушения, санкция статьи 174 ч. 2 УК предусматривает назначение наказания в виде лишения свободы на срок от пяти до десяти лет.

Общественная опасность данного преступления заключается в том, что нарушается основной конституционный принцип-принцип равенства. Соблюдение этого принципа является важнейшим условием существования и развития любого цивилизованного общества.

Непосредственным объектом этого преступления является международно-правовой, а также конституционный принцип недопущения разжигания социальной, национальной, родовой, расовой, сословной или религиозной вражды или розни.

В судебном заседании сторона защиты адвокат заявила ходатайство о применении меры пресечения в виде домашнего ареста, в связи с тем, что ее подзащитный страдает онкологической болезнью.

В судебном заседании представлена справка с АО «Национальный научный центр онкологии и трансплантологии», где указано, что изучена выписка пациента Ахмедова Теймура Султан оглы, с диагнозом ворсинчатая опухоль прямой кишки на 8 см., кровотечение 2 степени, постгеморрагическая анемия. Рекомендовано оперативное лечение и для госпитализации просят провести обследование.

Данная справка носит рекомендательный характер, где указано, что после обследования и отсутствии противопоказаний просят выставить пациента на портал для госпитализации в отделение хирургии АО «ННЦОТ».

Вместе с тем, стороной защиты не представлены документы подтверждающие невозможность нахождения подозреваемого под стражей в связи с болезнью, в связи с чем, суд отказывает в ходатайстве стороны защиты адвоката о применении меры пресечения в виде домашнего ареста.

Принимая во внимание, что Ахмедова Теймура Султан оглы, подозревается в совершении тяжкого уголовного правонарушения, санкция которой предусматривает наказание сроком до десяти лет, преступление относится к категории тяжких преступлений, дает суду основание полагать, что он, оставаясь на свободе может скрыться от органов досудебного производства и суда, может воспрепятствовать объективному и полному расследованию, продолжит заниматься преступной деятельностью, в связи с чем суд приходит к выводу, что основания для отказа в удовлетворении ходатайства следователя не имеется и в отношении Ахмедова Теймура Султан оглы следует санкционировать меру пресечения в виде содержания под стражей.

На основании изложенного, руководствуясь ст. ст. 147, 148 УПК РК,

ПОСТАНОВИЛ:

Санкционировать меру пресечения в виде содержания под стражей в отношении Ахмедова Теймура Султан оглы, 07 мая 1956 года рождения, сроком на 2 (два) месяца, то есть до 18 марта 2017 года, включительно.

Постановление может быть обжаловано и опротестовано в течение трех суток с момента его оглашения в суд города Астаны, через районный суд № 2 Сарыаркинского района гор. Астаны.

Следственный судья

копия верна
Следственный судья



А.И. Исаева

А.И. Исаева