

To:
Prosecutor General of the Republic of Kazakhstan
B. Asylov

Prosecutor of Shymkent City
G. K. Muqanov

From:
Suspect Esbol Muqamadan
IIN: 710902000240

I, Esbol Muqamadan, was held in custody at the investigative detention facility of the Enbekshi District Police Department of the Shymkent Police Department from September 8, 2023 to October 11, 2023, on the basis of a complaint made by Chinese national Han Yuhua. Despite being warned of criminal liability under Article 419 of the Criminal Code of the Republic of Kazakhstan, Han Yuhua falsely accused me of committing a crime under Article 190, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan.

Currently, I have been identified as a suspect under Article 190, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan and am staying in Shymkent under a written commitment not to leave the city.

However, based on Han Yuhua's complaint, the investigator of the Enbekshi District Police Department, B.N. Shaihullayev, recognized me as a suspect and filed a criminal case against me under Article 190, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan. Despite this, no investigation is being carried out to clarify the circumstances of the case and establish the truth. To this day, the case has been delayed and remains unresolved, which is negatively affecting my health. I was supposed to receive scheduled medical treatment at a clinic at this time.

With regard to Han Yuhua's complaint against me:

I never had any bad intention to deceive, gain his trust, or use him for personal gain under the guise of "starting a business", as he claims in his complaint. I am a businessman who has long been engaged in various business activities. In fact, Han Yuhua himself found me through his acquaintance, a man named Feng, who knew that I was a Kazakh from China engaged in various forms of private business in Kazakhstan. Han Yuhua got my phone number through Feng, contacted me, and we became acquainted over the phone.

In September 2018, Han Yuhua personally came to Kazakhstan, to Astana, where we met face-to-face. We discussed what type of business to engage in, and which region would be suitable to start in (considering locations in Astana and Shymkent). During our conversation, he convinced me of his capability to build a cement plant, as he claimed that he had more than \$100 million. After determining the approximate costs, we reached a verbal agreement. According to our understanding, I would initially purchase the land for the cement plant with my own money, and Han Yuhua promised that he would reimburse me later. We also agreed that once he brought all the equipment required for the plant, we would sign a contract.

From the very beginning, I told him that I only had a small amount of money in circulation within my company and that I did not have the around 5 billion tenge needed to open a stone-

processing plant. In response, Han Yuhua said to me: "I have the funds to build the plant; if you handle the work on this side, I will take care of the finances." So, I believed him and thought it would be possible to work together.

From our agreement with Han Yuhua, it was implied that the land for the stone-processing plant should be located in a mountainous area. With this in mind, I began purchasing land plots with my own funds; 6 hectares in the Zhuldyz settlement near Shymkent and 100 hectares in the mountainous region of Tulkibas county, Turkistan region. I kept Han Yuhua informed about these. After we agreed to it, I took the responsibility for handling several tasks in Kazakhstan before Han Yuhua's arrival. These included:

1. Calculating the costs of building the stone-processing plant and making a business plan.
2. Searching for suitable land plots and purchasing them.
3. Organizing the sale of construction equipment sent from China.
4. Providing employment, accommodation, and meals for five workers from China. I spent 500,000 tenge per worker to extend their monthly visas to annual work visas. Han Yuhua had agreed to reimburse these expenses.
5. Preparing the factory site, including land levelling, clearing, and placing the foundation, and beginning construction work.

I undertook all these efforts because I trusted what Han Yuhua told me. He assured me that we would establish a joint business, build a cement plant, and that he had experience running several cement and stone-processing plants in China. Believing in his promises, I invested my own 500 million tenge into the project, convinced that we would launch the plant in September 2023 and achieve success. I spent my 500 million tenge as Han Yuhua said he had 100 million dollars. However, after reaching the halfway point, I ran out of money. When I asked Han Yuhua for additional funds to continue construction, he suddenly admitted that he did not have the 100 million dollars he had claimed. He apologized and broke his promises. Neither he nor his wife nor any of his acquaintances ever transferred money directly to my bank accounts or my company, as he stated in his complaint he had. If he had transferred any money into my accounts, whether personally or through his company, I would have definitely returned it.

When I asked him to send over funds, he told me that he had no cash, but that he had old machinery that I could sell to get money. He assured me that I could cover my expenses by selling these machines and that there would be extra money that could then be used to build a concrete plant, a brick factory, petroleum stations, and other businesses on the remaining land. He convinced me by saying that we would be making 1 million tenge every day. He started shipping the machinery and I started organizing the sale of the machinery he sent, actively searching for buyers. Since he failed to provide the funds he had promised for the plant, he began sending used vehicles, machinery, and other items from China to cover up the fact that he did not actually have the funds he had claimed. This situation was extremely inefficient for our construction work because:

1. Customs clearance of the vehicles and machinery from China to Kazakhstan took several days.
2. Customs duties and utilization fees for old equipment made the costs higher than the actual value of the machinery.
3. Registering, selling, and converting the equipment into cash delayed our business.

Given this inefficiency, I warned Han Yuhua that he shouldn't send any more old equipment after he sent the first batch of machinery. However, he ignored my request and continued to send it over. When he started sending used machinery instead of money, I realized that he never actually had money. He was only sending old vehicles to cover the funds I had spent and to prevent me from filing a complaint against him (he falsely accused me of fraud). If I had been thinking only of personal gain and had intended to deceive or commit fraud, I would not have invested such a big amount of my own money. I would not have started construction on a plant that I would not afford. My main goal was to partner with Han Yuhua after he approached me, believing him to be an experienced and sincere businessman. I thought we could build a stone-processing plant together and share the profits equally. This is my response to Han Yuhua's suspicions and accusations that I committed fraud.

In an attempt to cover up his own wrongs (by hiding the fact that he did not have the promised funds and refusing to reimburse my expenses), he has arbitrarily set my costs at 537,080,000 tenge in order to preemptively accuse me and portray me as the guilty party. Now, he should prove it by showing the exact amount that he transferred to me as evidence.

Investigator N. B. Shaihulloyev did not, during the pre-trial investigation, thoroughly and extensively investigate the reasons behind Han Yuhua's false charges against me. The investigation under Article 190, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan, which concerns the alleged crime, lacks any solid evidence to support my guilt. Instead, Han Yuhua's false and unfounded claims have been accepted, and the case has been unilaterally decided by twisting the facts.

During the investigation, I filed complaints through my lawyers Murat Zholshyiev and Zharqynbek Ibadullayev concerning several illegal actions by the investigator N.B. Shaihulloyev, sending them to the relevant higher authorities. I appealed to A.B. Amzeev, the head of the Enbekshi District Police Department, D. Taev, the head of the Shymkent Police Department, and S. Abdiyev, the prosecutor of the Enbekshi District, both in writing and in requests for face-to-face meetings. However, they did not give a decisive response.

During the face-to-face confrontation between Han Yuhua and I in front of the investigator, he claimed that he had given 150,000 USD to both the investigator and his boss. Additionally, Han Yuhua sent me an SMS, instructing me: "Only agree with me, don't give money to anyone else, listen to me only." I translated this SMS and handed it over to the investigator.

According to Order No. 15 of the Prosecutor General of the Republic of Kazakhstan dated January 9, 2023, the Guidelines for Organizing Supervision of the Protection of Constitutional Rights and Freedoms of Individuals in Criminal Proceedings state that the main objective of supervision is the protection and restoration of the constitutional rights and freedoms of individuals, as well as the identification and elimination of violations of the law.

If that is the case:

1. B. N. Shaihullayev, during the interrogation, did not explain my rights to me and conducted the interrogation without the presence of a lawyer.
2. Although he knew of my health issues, he kept interrogating me for a total of 9 hours.
3. During the interrogation, the investigator B. N. Shaihullayev threatened me by saying that he would lock me up together with my wife and children.

4. It became clear that Han Yuhua had admitted to giving money to the head of the investigation department and to Investigator Shaihullayev. He told me: "Do not give them money, if you come to terms with me, your case will be solved." This shows that the case was deliberately distorted.

All of these illegal actions were brought about by the behavior of the investigator N.B. Shaihullayev, who did not take any action to request the evidence necessary to prove Han Yuhua's claims of my guilt. Instead, he relied solely on Han Yuhua's statement and declared me a suspect in a criminal case under Article 190, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan without any proper investigation. Despite my appeals to the Enbekshi District Prosecutor and other officials, asking for a reasonable response and a comprehensive review of the matter, no appropriate actions were taken, and I did not receive any answers. Is it not stated that, in the exercise of their duties, the prosecutor is responsible for protecting the rights, freedoms, and legitimate interests of individuals and citizens? The prosecutor is also tasked with ensuring that the legality and rationality of actions related to illegal detention, the rights of persons with disabilities, the results of medical examinations, the conditions of detention in temporary detention centers, and the strict observance of the requirements of Article 150 of the Criminal Procedural Code are upheld. Why, then, has none of this been properly addressed in my case?

If this order is to be implemented,

I REQUEST THE FOLLOWING TO BE ADDRESSED:

The illegal seizure of our 6 dump trucks without any official decree or decision, which were taken by Han Yuhua's translator and two other individuals. They did not provide any explanation for why the trucks were taken. We were not shown any documents or official decrees regarding this action. In addition, the prosecutor might have taken our machines, 19 Corollas, and 3 cement mixers in Shymkent.

Then, after the case had been dragging on for over 5 months and extending to 6 months, with the Chinese New Year approaching, the investigation was paused, and Han Yuhua was given 1 month off to return to China. Who will compensate my expenses and the losses that resulted from the work being stalled during that time? On top of that, I am someone who usually circulates 20-30 million tenge to support my family. Because of this case, many people have been left unpaid, and I have been unable to complete various projects I was involved in. I was unable to provide the entrepreneurs I was working with at that time with an explanation.

Despite the fact that Han Yuhua and I had a prior oral agreement to start a business together (to build a stone processing plant), he has filed false accusations against me in order to avoid compensating the damages he caused. Therefore, I request to open a criminal case against Han Yuhua for his false accusations; to initiate a criminal case against the investigator B. N. Shaihullayev for his illegal actions during his interrogation of me; to review the video footage from the surveillance cameras to determine the exact times and duration of my interrogation and ensure the legality of the process; to examine the legality of the decisions made regarding the classification of my actions and the sufficiency of the evidence that led to my being identified as a suspect; to investigate the illegal actions taking place at the Enbekshi District Police Department's investigation unit and ensure a fair resolution; to immediately terminate the case under Article 190, Part 4, Clause 2 of the Criminal Code of Kazakhstan, as there is no

basis to recognize me as a suspect. He also paid \$50,000 to have me and my son killed by some people.

Esbol Muqamadan