

Bangladeshi women are illegally detained in Indian prison- We demand immediate repatriation

MASUM <masumindia@gmail.com>

13 January 2022 at 11:46

To: Secretary General <sgnhrc@nic.in>, NHRC <chairnhrc@nic.in>, NHRC1 <cr.nhrc@nic.in>

Cc: Chief Secretary Gov of WB <cs-westbengal@nic.in>, "Home Secretary Govt of W.B."

<wb.secyhome@gmail.com>, Home Ministry <hm@nic.in>, "DG & IGP, West Bengal Police."

<dgpwestbengal@gmail.com>, DG BSF <edpdt@bsf.nic.in>, DG Eastern Command BSF <hqspldgeast@bsf.nic.in>,

SP North 24 Parganas <spnorth24parganas@gmail.com>, Bangladesh High Commission

<mission.kolkata@mofa.gov.bd>, DM <dm-bar-wb@nic.in>, MHA JS Border Management <jsbm@nic.in>



Banglar

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To
The Chairman,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi- 110023

13.01.2022

Respected Sir,

I am writing this complaint regarding detention of Bangladeshi women in West Bengal and accusing and treating them as criminals under Foreigners Act, 1946. For a long time MASUM has been trying to bring the on-going malpractice into light by making numerous complaints to the NHRC and other relevant departments. The authorities including police and judiciary are not at all concerned to enquire into whether the persons including women crossed the border from Bangladesh to India were the victims of human trafficking or not. Here I am appending two case details for your perusal.

Case 1: In connection with Hemnagar Coastal Police Station Case no. 41/21 dated 11.09.2021 under section 14/14C of Foreigners Act, the following two Bangladeshi women were arrested along with other male persons:

- 1) Ms. Aleya Bibi, wife of Sahadut Gazi, age- 46 years, residential address: - Village – Nurnagar; P.O. Pirganjan, P.S. – Kaliganj, Dist. – Satkhira, Bangladesh
- 2) Ms. Sumaya Gazi, wife of Jahed Ulla, age 21 years, residential address: - Village – Nurnagar; P.O. Pirganjan, P.S. – Kaliganj, Dist. – Satkhira, Bangladesh along with other two Bangladeshi male persons –
 - (a) Mr. Jahed Ulla, Son of Sahadat Gazi, age 20 years
 - (b) Mr. Sahadul Gazi, Son of Late Antas Gazi, age 51 years, both are residing at Village – Nurnagar; P.O. Pirganjan, P.S. – Kaliganj, Dist. – Satkhira, Bangladesh

On 11.09.2021 they entered into Indian Territory by crossing the Kalindi river when she was apprehended by the police personnel Hemnagar Coastal Police Station. They have come to Indian Territory with the help of touts. The victim was produced before the Basirhat ACJM court on 11.09.21 and sent to the Dum Dum Central Correctional Home for 14-days jail custody. Till time they were detained there.

Case 2: In connection with Hemnagar Coastal Police Station Case no. 42/21 dated 12.09.2021 under section 14 / 14C of Foreigners Act, the following Bangladeshi woman was arrested along with one male person:

- 1) Ms. Ruma Bibi, wife of Dilbar Sekh @ Selim, aged about 30 years, residing at Village Navarun, Tulashi, P.O.-Jadavpur, P.S. – Jigalgacha, District – Jessore, Bangladesh
- 2) Ms. Swapna Khatun, daughter of Liyakat Ali, aged about 29 years, residing at Village Kanyadaha, P.O. Rampur, P.S. Sarsha, District – Jessore, Bangladesh along with one Bangladeshi male person
 - (a) Mr. Iqbal Hossain, son of Kamal Sardar, aged about 19 years, residing at Village Behola Mondal Para, P.O.-Paithali, P.S. Ashasuni, District – Satkhira, Bangladesh

The victims came to India from Bangladesh by crossing the Kalindi river on 12.09.2021 in search of a job but they were apprehended by the police personnel of the Hemnagar Coastal Police station from the Sardarpara at about 5.35

am. The victims were produced before the Basirhat ACJM court on 12.09.21 and they were sent to the Dum Dum Central Correctional Home for 14-days jail custody. Till time they were detained there.

Our fact finding reveals that the arrested Bangladeshi women and children entered India for the purpose of working in India as they are terribly poverty-stricken people with no jobs in Bangladesh. Most of them work as domestic help, construction worker and hotel workers in various locations of India. The victims were entered India through the border with the help of local touts, involved in cross border illegal movements (both side of the border), when they were being arrested by the police personnel of the Hemnagar Coastal Police Station. These touts / middlemen / *DHURS* are operating in connivance with border guards of both sides, India and Bangladesh. The Bangladeshi persons arrested were treated as accused under the Foreigners Act and no attempt is being taken up by the police or the concerned court to ascertain whether they were the victims of human trafficking or not. Such approach of the criminal justice system is against the advisory issued by the Government of India vide office memorandum No. 14051/14/2011-F.VI of Ministry of Home Affairs (Foreigners Division) Government of India Dated 1st May, 2012 clearly states as “(IV) it is seen that in general, the foreign victims of human trafficking are found without valid passport or visa. If, after investigation, the woman or child is found to be a victim, she should not be prosecuted under the Foreigners Act. If the investigation reveals that she did not come to India or did not indulge in crime out of her own free will, the State Government / UT Administration may not file a charge sheet against the victim. If the charge sheet has already been filed under the Foreigners Act and other relevant laws of the land, steps may be taken to withdraw the case from prosecution so far as the victim is concerned. Immediate action may be taken to furnish the details of such victims to the Ministry of External Affairs (Consular Division), Patiala House, New Delhi so as to ensure that the person concerned is repatriated to the country of her origin through diplomatic channels” and (v) During the interim period, pending repatriation, the victim may be taken care of in an appropriate children’s home, or “Ujjawala” home or appropriate shelter home either of the State Government concerned or of any NGO aided by the Government of India / State Government.’

I hereby want to recall the Memorandum of Understanding signed by India and Bangladesh on bilateral cooperation to prevent human trafficking in women and children; signed by both countries on 30 May 2015.

I also want to mention that State agencies should pay respect to the Constitution of India, in connection with Article 51(c).

The present complaint reflects that the law enforcing agency by arresting the above stated persons and implicating them under the Foreigners Act as accused persons acted mechanically without giving any importance to legitimate entitlements of those arrested persons.

The incidents are not only violating the advisory of Government of India but in violation of Goal Number 16 of Sustainable Development Goals of UN, Government of India is a party to set the goals and obliged to adhere to the same.

Under the circumstances I would request your authority to intervene in this present complaint and consider the following demands of justice for the victims: -

- The whole matter must be investigated by one neutral investigating authority.
- The concerned authority must be directed to hold an inquiry in compliance with the advisory issued by the Government of India vide office memorandum No. 14051/14/2011-F.VI of Ministry of Home Affairs (Foreigners Division) Government of India Dated 1st May, 2012 and pending the inquiry the victim women and children must not be treated as accused.
- The victim persons including women should be immediately repatriated to their own country and prosecution launched against them should be withdrawn at the earliest.
- The constant flouting of advisory of Ministry of Home Affairs (Foreigners Division) Government of India by various components of criminal justice administration should be dealt with concern and offenders must be punished accordingly.

Thanking you,
Yours truly

Dipyaman Adhikary
Assistant Secretary
Banglar Manabadhikar Suraksha Mancha (MASUM)

Attached Documents
Copy of accused challan submitted from Hemnagar Costal Police Station



Accused Challan

In the court of
Ld Adtl. Chief Judicial Magistrate
Basirhat, North 24 Parganas.

(Through G.R.O, Basirhat Court)

Ref:- Hemnagar Coastal P.S. Case No. 41/21 Dated 11.09.21 U/S -14/14C Foreigners Act.

Named of accused person

- (i) Jahed Ulla(20) S/O Sahadat Gazi
 - (ii) Sahadut Gazi(51) S/O Late Antas Gazi,
 - (iii) Aleya Bibi (46) W/O Sahadut Gazi
 - (iv) Sumaya Gazi (21) W/O Jahed Ulla
- all of Vill - Nurnagar, P.O. Pirgajan, P.S. Kaliganj, Dist- Satkhira, Bangladesh

Name of escort party :-

- 1. 1100 Subudh Pal
- 2. 1100 Subudh Pal
- 3. CV-2
- 4. CV-2
- 5. CV-2

Your faithfully

Debraj Sanful
 11/09/21
 PSI Debraj Sanful
 Hemnagar Coastal PS
 Basirhat PD



Accused Challan

In the court of
Ld Adtl. Chief Judicial Magistrate
Basirhat, North 24 Parganas.

(Through G.R.O, Basirhat Court)

Ref:- Hemnagar Coastal P.S. Case No. 42/21 Dated 12.09.21 U/S -14/14C Foreigners Act.

Named of accused person

- (i) Ruma Bibi(30) W/O Dilbar Seikh @ Selim of Vill Navarun, Tulashi, P.O. Jadavpur, P.S. Jigalgacha, Dist- Jessore, Bangladesh.
- (ii) Swapna Khatun(29) D/O Liyakat Ali of Vill- Kanyadaha, P.O. Rampur, P.S. Sarsha, Dist- Jessore, Bangladesh,
- (iii) Ikbal Hosen(19) S/O Kamal Sardar of Vill- Behola Mondal Para, P.O. Paithali, P.S. Ashasuni, Dist- Satkhira, Bangladesh

Name of escort party :-

- 1. 11100 Rubada Pal
- 2. CV-30 Jisu Mondal
- 3. CV-58 Kaisha Mondal
- 4.
- 5.

Your faithfully

AP Patra
 12/09/21
 ASI Nirupam Patra
 Hemnagar Coastal PS
 Basirhat PD