



Banglar

Manabdhikar Suraksha Mancha (masum)

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**29.01.2022**

To

The Chairman  
National Human Rights Commission  
Manav Adhikar Bhawan  
Block – C, G.P.O. Complex, INA  
New Delhi – 110023

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 Swarupnagar Police Station Case no. 905/21 dated 21.10.2021 under section 14/14C of Foreigners Act, the following one Bangladeshi woman was arrested along with other male persons:

- (1) Ms. Sarmin Begum, wife of Naiym Hossain, age- 26 years, residential address: - Village – Kaiba; P.O. Porch Kaiba, P.S. – Sharsha, Dist. – Jessore, Bangladesh.

On 20.10.2021 at about 6.30 pm the woman victim was apprehended by the Border Security Force personnel attached with Tarali Border Out Post, 112 Battalion, 'A' Company from approx 500 meter distance to Tarali Border Out Post . They have come to Indian Territory with the help of touts. BSF personnel handed over that woman victim to Swarupnagar Police station after more than 20 hours. On 21.10.2021 at about 3.35 pm she was handed over to the Swarupnagar Police Station along with one complaint lodged by BSF which was diarized vide General Diary Entry number 997 dated 21.10.2021 and started Swarupnagar Police Station Case number 905/21 dated 21.10.2021 under section 14 of Foreigners Act. On 22.10.2021 she was produced before the Court of Additional Chief Judicial Magistrate, Basirhat. The said court sent her 14 days jail custody.

In this connection I want to mention several points where the authorities violated the general rule for dealing with the case of trafficked victims like this.

- ❖ BSF is not an investigating authority. Their main work is to protect the border. It is their primary duty when any accused was apprehended by them, instantly they were handed over the victim to the local police station under the respective jurisdiction. Here in this case BSF apprehended the women victim on 20.10.2021 at about 6.30 pm and on 21.10.2021 at about 3.35 pm she was handed over to the Swarupnagar Police Station.
- ❖ More than 20 hours woman victim was detained in the BSF custody without any reason.
- ❖ That means after the apprehension of that woman victim she was produced before the court after more than 40 hours which is violated the provisions of Article 22 of Indian Constitution and section 57 of the Code of Criminal Procedure.
- ❖ During the time of registering the case, why the duty officer of Swarupnagar Police Station in the FIR did not mention the reasons for delay of lodging the complaint by the BSF.

In this case, the Court of Additional Chief Judicial Magistrate; Basirhat sent the woman victim to the jail custody for 14 days instead of sending her to the appropriate shelter home.

The Bangladeshi woman arrested was treated as accused under the Foreigners Act and no attempt has been taken up by the police or the concerned court to ascertain whether she was the victim 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

**Case 2:** In connection with Hemnagar Coastal Police Station Case no. 40/21 dated 10.09.2021 under section 14 / 14C of Foreigners Act, the following Bangladeshi woman was arrested along with one male person:

- (1) Ms. Rahila Sardar, wife of Ridoy Khan
- (2) Sapna Joynal Sardar, daughter of Joynal Sardar, both are residing at Village – Goadkhali, P.O. – Goadkhali, P.S. – Jigolgacha, Dist. – Jessore, Bangladesh.
- (3) Bandana Debnath, wife of Nantu Debnath, residing at Village & P.O. – Mothbari, P.S. – Koyra, Dist. Khulna, Bangladesh

The victims came to India from Bangladesh by crossing the Kalindi river on 10.09.2021 in search of a job but they were apprehended by the police personnel of the Hemnagar Coastal Police station from the Sardarpara at about 1.55 pm. The victims were produced before the Basirhat ACJM court on 11.09.21 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.'

As a member state of SAARC, it is duty and responsibility of Indian state to follow the resolutions passed there. It is constitutional duty of every citizen of India to foster respect as enshrined in Article 51C of Indian Constitution. SAARC, in its Convention in Kathmandu 2010 and in Paro, Bhutan on 11-12 April 2013, clearly took stand against trafficking of women and children. Ministry of Home Affairs issued Standard Operating Procedure (SOP) to all states and Union Territories. Judicial Colloquiums were held to sensitize the decision by the Government of India. If, the Standard Operating Procedure is not followed by police, BSF, even judiciary; the erring officials be booked accordingly. Section 12 (f) of PHRA 1993 empowers Your Commission to study the treaties and make recommendations thereto.

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. The present complaint reflects that the law enforcing agency by arresting the above stated women and children and implicating the women victims 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 United Nations, Government of India is a party to set the goals and bound to adhering the same.

Under the circumstances I hope that the Commission 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 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 FIR lodged in Swarupnagar Police Station , North 24 Parganas

W. B. P. Form No. 27  
**FIRST INFORMATION REPORT** 2506

First information of a cognizable crime reported under section 154 Cr. P. C. at P. S.

1. Dist. North 24 Pgs Sub-Divn. Banishat P.S. Swarupnagar Year 2021 FIR No. 905/2021 Date 21/10/2021

2. (i) Act. Foreigners Act Sections 0 (ii) Act. 0 Sections 0

3. (a) General Diary Reference : Entry No. 997 Other Acts & Sections 14 Foreigners Act  
(b) Occurrence of Offence : Day 20/10/2021 Date 20/10/2021 Time at 10:35 Pm  
(c) Information Received Date 20/10/2021 Time at 15:35 Pm  
G.D. No. 997 at the Police Station : Swarupnagar

4. Type of information : Written / Oral typed

5. Place of Occurrence : (a) Direction and Distance from P.S. East side 20 Km (approx)  
(a) Address 9m alignment of BP no. 13/42-1 BOP-Tarali under Swarupnagar  
Dist. North 24 Parganas  
(b) In case outside limit of this Police Station, then the name of P.S. \_\_\_\_\_

District \_\_\_\_\_

6. Complainant / Informant :  
(a) Name ASS - Bhajantol  
(b) Father's / Husband's Name \_\_\_\_\_  
(c) Date / Year of Birth \_\_\_\_\_  
(d) Nationality Indian  
(e) Address R. Coy, 112 Bn. ASF. BOP - Tarali under Swarupnagar P.S. (N) 24 Pgs

7. Details of Known / Suspected / Unknown / Accused with full particulars Goswami Begum (26 yrs)  
(Attach separate sheet, if necessary) H/O. Nayim Hassan, Vill: Kaiba, P.O: Panth Kaitin,  
P.S. Shoteha, Dist. Sherhat, Jessore (Bangladesh)

8. Reason for delay in reporting by the Complainant / Informant \_\_\_\_\_

9. Particulars of Properties stolen / involved : (Attach separate sheet, in required) One VIXO mobile phone  
(IMEI no. 861615058351456/449)

10. Total Value of Properties stolen / involved \_\_\_\_\_

11. Inquest report / U.D. : Case No. if any \_\_\_\_\_

12. FIR Contents : (Attach separate sheet, if required) The original typed complaint of the complainant  
which is treated as -PR is attached herewith prepa-  
duce over leaf.

13. Action taken : Since the above report reveals commission of offence (s) 14 Foreigners Act

registered the case and took up the investigation / directed PSI Labir A.C. P.S.  
\_\_\_\_\_ to take up the investigation  
transferred to P.S. \_\_\_\_\_ on point of jurisdiction. FIR read over to the complainant / Informant,  
admitted to be correctly recorded and a copy given to the complainant / Informant free of cost.


Recorded by me  
Bijon Rajbanshi  
Sub Inspector of Police  
Swarupnagar P.S.  
North 24 Pgs

Signature of the Office-in-Charge, Police Station with  
Name Sub Inspector of Police  
Rank Sub Inspector of Police  
Number if any 412/Swarupnagar P.S. North 24 Pgs

Signature / Thumb Impression of the Complainant / Informant \_\_\_\_\_

# Copy of complaint sent from Tarali BSF camp

No. OPS/FIR/A/112BN/2021



OFFICE OF THE COY COMMANDER  
'A' COY 112 BN BSF, BOP TARALI  
DATED. 21 OCT 2021

To,  
The SHO  
Police Station, Swarupnagar  
District, North 24 PGS


**SUB: LODGING OF FIR**

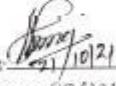
1.	Date and Time	:	20/10/2021 at about 1830 hrs.
2.	Name of BOP	:	BOP Tarali.
3.	Place of Incident	:	In alignment of BP No. 13/4R-4.
4.	Distance from IB	:	Approx. 400 Mtr
5.	Distance from BOP	:	Approx. 500 Mtr from BOP-Tarali.
6.	Type of Incident	:	Apprehension/Incoming.
7.	Details of Apprehension	:	01 BD National/Female.
8.	Name of Party	:	ACP PARTY I. No.972544920 HC Maclub Khan.

9. Name & Address of Apprehended Person:-  
i) Sarmin Begum, Female/Muslim/Age Appx- 26 Years, W/O- Naiym Hassan,  
Vill- Kaiba, P.O- Panch Kaiba, P.S- Shausha, Dist-Jessore (BD),M.No-01862286058.

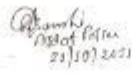
10. **BRIEF DETAILS OF INCIDENT:-**  
It is to inform you that, on dated 20 Oct' 2021 at about 1830 Hrs, While No-972544920 HC Maclub Khan was performing 1<sup>st</sup> shift ACP duty at ACP point No.09 of BOP Tarali, he detained 01 suspected BD national while she was moving towards India side from BD side. On initial questioning she told that she is a BD national and she had came from Bangladesh, then ACP party immediately apprehended her and brought to BOP Tarali for PQR. In the view of above, you are requested to receive the apprehended person & take necessary action in the regard.

12. A copy of FIR may please be given to bearer of this letter for our record, please.



Sig-   
21/10/21  
Regt no- 986225502  
Rank- AS1  
Name- Shejan Lal

Received on 21/10/2021 at 15:35 hrs  
and started Swarupnagar P.S. case no 905/2021  
dt. 21/10/2021 v/s - 14) Foreigners.

  
AS1 of P.S.  
21/10/2021

**Copy of Accused Challan sent from Hemnagar costal and Swarupnagar Police Station respectively**

Accused Challan

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

(Through G.R.O, Basirhat Court)

Ref:- Hemnagar Coastal P.S. Case No. 40/21 Dated 10.09.21 U/S -14/14C Foreigners Act.

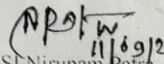
Named of accused person

1. Ridoy Khan S/O Late Ismail Khan
2. Rahila Sardar W/O Ridoy Khan,
3. Sapna Joynal Sardar D/O Joynal Sardar  
all of Vill Goadkhali, P.O. Goadkhali, P.S. Jigolgacha, Dist- Jessore, Bangladesh
4. Bandana Debnath W/O Nantu Debnath
5. Sahalam Habaldar S/O Rajjak Habaldar both of Vill+P.O. Mothbari, P.S. Koyra,  
Dist- Khulna, Bangladesh

Name of escort party :-

1. 11227 Sanjay Soren
2. 11276 Sanjay Majumder
- 3.
4. 1 CV - 2, CV - 2
- 5.

Your faithfully

  
AST Nirupam Patra  
Hemnagar Coastal PS  
Basirhat PD



Sheld A.C.J.M.  
Basirhat court, 24 P.S.W)  
through G.R.O Basirhat court 24 P.S.W)  
Ref: swarupnagar p.s. case no. 905/21 dt.  
21.10.21 U/S-14 F.A.C

Accused Name & Address

Sarmir Begum (264)  
w/o. Nayim Hassan.  
vill. Raibo.  
po. porch Raibo.  
p.s. shorsha.  
Dist. Jessore (B.D)

Escort party

2/426 Biswadev Munde.  
2/422 K. Uddin Borden.

yours faithfully

P.S. Sobir Ali  
Swarupnagar p.s.  
dt. 22.10.21.