

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

MASUM <masumindia@gmail.com>

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Banglar

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

09.02.2022

Respected Sir,

I am writing this complaint regarding detention of Bangladeshi women and children in West Bengal and accusing and treating them as criminals under Foreigners Act, 1946. Since long MASUM is 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 Border Security Force are not at all concerned to enquire into whether the persons including women and children crossed the border from Bangladesh to India were the victims of human trafficking or not. Here I am appending three case details for your perusal.

Case 1: In connection with Swarupnagar PS Case no. 906/21 dated 22.10.2021 under section 14 of Foreigners Act, the following Bangladeshi women and children were arrested:

- 1) Ms. Nargis Sarder, daughter of Kader Sarder, age - 30 years, residential address: - Village - Inayatpur Post Office – Madanpur, PS – Monirampur, District – Jessore, Bangladesh along with her lab baby:
 - a) Ganesh Goura, Aged – 3 years
- 2) Ms. Kumkum Begum, wife of Md Rana Sarder, age - 23 years, residential address:- Village - Erescent Bazer, P.O and P.S - Khalispur, District - Khulna, Bangladesh
- 3) Ms. Noor Jahan, wife of Abdul Qayum, age – 65 years, residential address:- Village – Jodeswar, P.O - Borotala, P.S – Shibchar, District – Madaripur, Bangladesh

The victims were Bangladeshi nationals, who were trying to enter India from Bangladesh on 21.10.2021 at around 11:00 P.M when she was apprehended by the BSF personnel attached with 112 Battalion, Hakimpur BSF BOP and handed over to the Swarupnagar police. The victim was produced before the Basirhat ACJM court on 22.10.2021 and sent to the Dum Dum Central Correctional Home for a 14-day jail custody. The victims were detained from 300 meters far from India Bangladesh border and 700 meters far from Hakimpur B.O.P. The victims had a plan to visit Delhi for job purpose.

Case 2: In connection with Basirhat Police Station Case no. 173 dated 17.03.2021 under section 14 of Foreigners Act, the following Bangladeshi woman was arrested:

- 1) Ms. Jamina Begum, wife of Muktar Ali, age- 35 years, residential address: - Village – Gourpara, Post Office – Lakhanpur, PS - Sarsha and District - Jessore, Bangladesh.

The victim came to India from Bangladesh on 16.03.2021 at around 16:00 Hrs. in search of job but she was apprehended by the BSF personnel attached with 153 Battalion, Ghoadanga BSF BOP and handed over to the Basirhat police. The

victim was produced before the Basirhat ACJM court on 17.03.2021 and sent to the Dum Dum Central Correctional Home for a 14-day jail custody.

Case 3: In connection with Swarupnagar Police Station Case no. 1044/2021 dated 11.12.2021 under section 14 of Foreigners Act, the following Bangladeshi woman was arrested:

1) Ms. Prantika Halder, daughter of Partha Halder, age- 18 years, residential address: - Village – Gandharba, Post Office – Amarajuri, PS - Kaokhali and District - Pirojpur, Bangladesh.

The victim came to India from Bangladesh on 11.12.2021 at around 12:15 Hrs. in search of job but she was apprehended by the BSF personnel attached with 112 Battalion, Hakimpur BSF BOP and handed over to the Swarupnagar police. The victim was produced before the Basirhat ACJM court on 12.12.2021 and sent to the Dum Dum Central Correctional Home for a 14-day jail custody.

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. In several other instances they also enter India for the purpose of medical treatment as there are limited facilities in Bangladesh. Most of them work as domestic helper, construction worker and hotel workers in various locations of India. The victims are either trying to enter India through the border or return to their home in Bangladesh with the help of local touts, involved in cross border illegal movements (both side of the border), when they are being arrested by the Border Security Force (BSF) personnel. 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 Constitution of India, in 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 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 children should be immediately repatriated to their own country and prosecution launched against them should be withdrawn at the earliest.

