

## Criminalizing trafficked victims - Prolonged Detention in judicial custody

From: **MASUM** <masumindia@gmail.com>

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Subject: Criminalizing trafficked victims - Prolonged Detention in judicial custody

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

Cc: SP Noth 24 Parganas <spnorth24parganas@gmail.com>, DM <dm-bar-wb@nic.in>, Bangladesh High Commission <mission.kolkata@mofa.gov.bd>, DG BSF <edpdte@bsf.nic.in>, SDO Basirhat <sdobasirhat@gmail.com>, <vaw@ohchr.org>

To  
The Chairperson  
National Human Rights Commission  
Block- C, GPO Complex, INA  
New Delhi – 110023

6 January 2020

Respected Sir,

I would like to lodge another complaint on illegal arrest and subsequent detention of Bangladeshi women under Section 14 of The Foreigners Act, 1946, which was in total violation of 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. This complaint is similar in nature and in continuation with my several previous complaints before the Commission but till date no proper action has been taken by the Commission on my earlier complaints. In miniscule of our complaints, your Commission has asked for police report and police in a heartless and routine procedure copying us the reports, those reports are inadequate and not addressing the issue which we tried to raise. I want to raise this question, whether the Home Department, Government of India withdrew the aforesaid guideline? If not, then it is the duty of criminal justice administration of West Bengal to show respect to that Memorandum. The decision took birth from International treaty at SAARC meeting. So it is the duty of every citizen to obey the decision as Article 51 (c) of Indian Constitution.

Police, BSF, even judiciary are violating UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000. Indian state signed this Protocol. Through governmental action trafficked women and children were treated as criminal and sent to prison.

Here are the details of two incidents where it is clearly stated Bangladeshi female and male crossed the border in searching for better livelihood.

Our fact-finding team revealed that in the first incident, total 5 Bangladeshi people were arrested out of them 3 were women and 2 were men. They were arrested in connection with Swarupnagar Police Station Case number 678/2019 dated 06.09.2019 under section 14 of Foreigners Act. On the same day those Bangladeshi Nationals were appeared before Basirhat Additional Chief Judicial Magistrate's court and they were instructed to send at Dumdum Correctional Home for next 14 days. Till date they are stuck in the mentioned correctional home.

The particulars of Bangladeshi Nationals-

- (1) Mrs. Rabia Bibi, wife of Sabur Ali Seikh, aged about 48 years, residing at village Kalapota, P.O. Mijjapur, P.S. Tala, Dist. Khulna, Bangladesh
- (2) Mrs. Hena Begum, wife of Suman Hawader, aged about 30 years, village Alkattala, P.O. Kedemtala, Dist. Khulna, Bangladesh
- (3) Mrs. Perveen Bibi, wife of Chhatu Seikh, aged about 26 years, residing at village Paruan, P.O. Chikon Chada, P.S. Bhojpor, Dist. Chittagong, Bangladesh
- (4) Mr. Sanur Ali Seikh, son of Late Md. Amizuddin Seikh, aged about 50 years, residing about village Kalapota, P.O. Mijjapur, P.S. Tala, Dist. Khulna, Bangladesh
- (5) Md. Iyasin Munshi, son of Ismail Munshi, residing at village Rajapur, P.O. Amaragachhiya, P.S. Ramda, Dist. Bagerhat, Bangladesh

In another incident in the same district of North 24 Parganas, 3 Bangladeshi people ( 1 woman and two men) were arrested by Border Security Force person namely SI Suman Kumari from Bithari Border Out Post number 13/4, District-North 24 Parganas, West Bengal on 20.11.2019 at 17.55 hrs, while the Bangladeshi nationals entered into the Indian Territory. On that day BSF personnel handed over them to Swarupnagar Police and Swarupnagar Police Station registered the complaint vide Swarupnagar PS Case No. 990/19 dated 20.11.2019 under section 14 of Foreigners Act. Next Day on 21.11.2019 those Bangladeshi nationals were produced before the Court of Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas. The said court sent the victim for fourteen days judicial custody and till date they are detaining at Dumdum Central Correctional Home.

The particulars of Bangladeshi Nationals-

(1) Mrs. Jesmin Bibi, wife of Amirul Seikh, aged about 19 years, residing at village and P.O. Kalikapur, P.S. Kaliganj, District Satkhira, Bangladesh

(2) Mr. Amirul Seikh, son of Rulamin Seikh, aged about 20 years, residing at village and P.O. Kalikapur, P.S. Kaliganj, District Satkhira, Bangladesh

(3) Mr. Najmul Hossain, son of Nojibar Hossain, aged about 22 years, residing at village Digha Chati Bari, P.O. Digha, P.S & Dist. Jessore, Bangladesh

The prosecution case was registered against them merely on the allegation that they entered into India without any valid document. But the fact is that a large section of Bangladeshi people, particularly women are trapped by the traffickers. Poor Bangladeshis are enticed for better job in India. I hope that the victims in these two cases will be provided with adequate legal support and the Commission shall consider the following demands of justice for the victims:-

· Police, BSF, Judiciary and administration must obey 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.

· The prosecution against the victims should be withdrawn immediately considering the facts and circumstances of the victims.

· The victim women should be kept in a shelter home instead of the correctional home.

· The series of incidents, including the current two; flouting the Government of India's advisory, 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 must not be treated as accused.

· The victim persons should be repatriated to their own country and prosecution launched against them should be withdrawn at the earliest.

Thanking you,

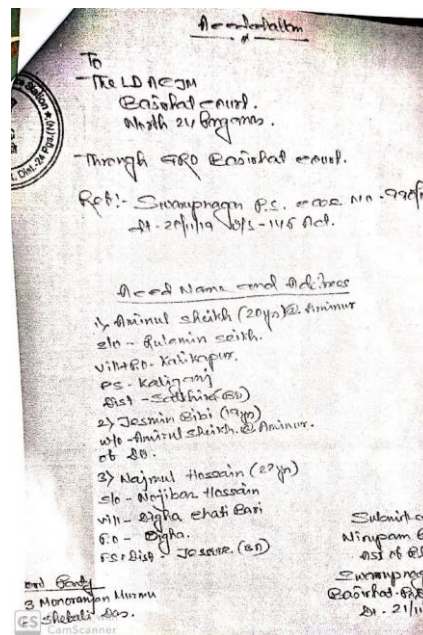
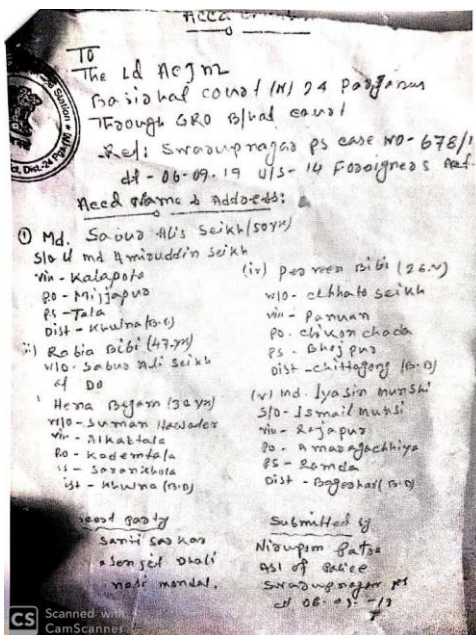
Yours truly

Dipyaman Adhikary

Assistant Secretary

Banglar Manabdhikar Suraksha Mancha (MASUM)

## Attached Documents



Accused Challan Swarupnagar PS case 678 of 2019

Accused challan Swarupnagar PS case 990 of 2019