

30 March 2022

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

Respected Sir,

I am writing this complaint regarding detention of Bangladeshi woman and child 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 relevant government departments. The concerning authorities including police and Border Security Force and their higher ups 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 Sahebganj Police Station **Case no. 47/22** dated 07.02.2022 under section 14 of Foreigners Act, the following Bangladeshi woman and child were arrested:

- 1) Ms. Musamad Jasmin Akhter, wife of Md. Rejaul Islam, Age- 17 years, residential address:- Village Uttarkuti Chanderkhana, P.O Office – Gangahat, P.S – Phulbari, District - Kurigram, Bangladesh along with one lab baby a) Md Junaid, Aged – 2.5 years.

The victims are Bangladeshi nationals, who were trying to cross over IB to India through unfenced patch of BOP Dharla on 06.02.2022 at around 8:22 P.M when she along with her baby boy were apprehended by SI Subhash Chander (AHTU), CT Tapas Biswas (AHTU), CT/MP Pushpa Kumari and CT/MP Ranjeeta Pashi BSF personnel attached with 129 Battalion, Purba Sahebganj BSF BOP from 400 meters away from Dharla BOP and handed over to the Sahebganj police station. Police then and there registered one criminal case against the persons apprehended and all the victims were produced before the Dinhata court on 07.02.2022 and sent to the Coochbehar Correctional Home for 14-day jail custody. They came to India in search of job.

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.*

This approach is also violating the Article 6, 7, 8, 11 and 12 of the MOU between The Government of the Republic of India and The Government of the People’s Republic of Bangladesh on Bilateral Cooperation for Preventing of Human Trafficking especially trafficking in Women and Children; signed by both countries on 30<sup>th</sup> May 2015.

The treatment done by BSF, police of West Bengal, the governments of Union and the State including judiciary is proved that the spirit of international laws are not in mind set of those. I hereby recall the decision taken in the Vienna Forum to Fight Human Trafficking, February 2008; fourteen years ago.

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: -

- Please issue one guideline on cross border trafficking of Bangladeshi women and children
- 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.
- 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

Kirity Roy  
Secretary, MASUM

**OFFICE OF THE COY COMDR 'A' COY OF 129 BN BSF: BOP PURBA SAHEBGANJ**

No. Ops/FIR/A/129/2022/46

Dated: 06<sup>th</sup> Feb. 2022

To.

The Officer In charge  
Police station, Sahebganj  
Coochbehar (WB)

Seen

**SUB :- LODGING OF FIR**

It is to inform you that on dated 06<sup>th</sup> Feb. 2022 at 2015 Hrs SI Subhash Chander (AHTU) along with CT Tapas Biswas (AHTU), CT/MP Pushpa Kumari & CT/MP Ranjeeta Pashi apprehended 03 Bangladesh Nationals i.e. 01 male, 01 female with child (infant male) in AOR of BOP Dharla. As per input from AHTU the duty personnels were alerted about possible movement of BD national trying to cross over IB to India through unfenced patch of BOP Dharla. At 062010 Hrs 01 male, 01 female alongwith 01 male child came at MCP point in AOR of BOP Dharla. The duty personnels stopped them and asked about their identity, on which they hesitated and could not give proper reply and they did not show any identity proof. SI Subhash Chander (AHTU) along with other duty personnels present at the point further inquired from them on which they revealed that they are Bangladeshi nationals and showed their ID proof saved in their mobile, after which they were apprehended. The Post Cdr. and Coy Cdr. Were informed simultaneously and both reached the spot. On further inquiry the apprehended Bangladeshi persons revealed about their identity as Md Rejaul Islam Age-28 years approx. S/O Md Anchar, Musamad Jasmin Akhter Age-17 year approx. W/o Md Rejaul Islam & Md Junaid -Age-2.5 years approx. S/o Md Rejaul Islam all are resident of Vill- Uttarkuti Chanderkhana PO-Gangahat PS-Phulbari Distt-Kurigram(BD).

**THE DETAILS OF APPREHENDED PERSON ARE AS UNDER-**

1. Md Rejaul Islam Age-28 years  
S/O Md Anchar
2. Musamad Jasmin Akhter Age-17 years  
W/o Md Rejaul Islam
3. Md Junaid -Age-2.5 years  
S/o Md Rejaul Islam  
Vill- Uttarkuti Chanderkhana  
PO-Gangahat  
PS-Phulbari  
Distt-Kurigram(BD)

Received on 07.02.2022 at 01.15  
by. Vide G.D. No: 214 dt: 07.02.2022  
and started Sahebganj PS Case No  
49/22 dt: 07.02.2022 by S-1 A A  
Foreigner Act. and conveyed to ASI-  
Pranabendu Chakrabarty for its  
investigation.

*Pranabendu Chakrabarty*  
07/02/22  
Officer in-charge  
Sahebganj Police Station  
Dist.- Cooch Behar

**ITEM RECOVERED FROM POSSESSION-**

1. ITEL keypad mobile without sim card.  
IMEI No. 354265113790223 & 354285113790231
2. Redmi 9 android Mobile.  
IMEI No. 867289054123824 & 867289054123832  
Indian Sim Idea with sim No. 89911100001491534599  
Mobile No. 8684826935

*Pranabendu Chakrabarty*  
LONLIAN SONTOM  
WY WMDR, A COY

POO-

BP Ref. 965/M

Incoming/Unfenced/Land border

Dist from IE- 50 mtrs approx.

Dist from own BOP Dharla- 400 mtrs approx.

Dist from own village Sahebganj - 100 mtrs approx.

Distance from BD BOP Pathardubi - 2000 mtrs approx.

Distance from BD village Pathardubi - 300 mtrs approx.

Seen  
A.M. 11.11.22  
07/02/22

In view of above the apprehended BD Nationals are hereby handed over to PS Sahebganj. You are requested to lodge an FIR under suitable law of land.

No. 860760555  
SI SUBHASH CHANDER  
AHTU

NO. 15350993  
SI NENGNEIVAH  
PC BOP DHARLA

(SONLIANSONTAH)  
AC/COY CDK 'A' COY 129 BN BSF

Enclosed: Fitness Certificate.

W.S.P Form No. 27

FIRST INFORMATION REPORT 1297

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

1. District Chhattisgarh Sub-Div Surakheda PS Sahebganj Year 2022 FIR No 177/22 Date 07.02.2022

2. Act 14A Foreigner Act Sections 14A Foreigner Act i) Act 14A Foreigner Act Sections 14A Foreigner Act

3. a) General Diary Reference Entry No. 214 Time at 01:55 hrs  
 b) Occurrence of Offence Day Sunday Date 06.02.2022 Time at about 20:15 hrs  
 c) Information of Offence Day Monday Date 07.02.2022 Time at 01:55 hrs  
 G.D. No. 24 at the Police Station.

4. Type of information Written / Oral

5. Place of Occurrence (a) Direction and Distance from PS approx 02 kms East  
 (b) Address Near BP Ref. 965/M BOP Dharla under PS Sahebganj, Coimbatore  
 Beat No. 1  
 (c) In case outside limit of this Police Station, then the name of P.S. Seen District Seen

6. Complaint / Information:  
 (a) Name Sri. Anand Chandra  
 (b) Father's/Husband's Name Coy. Sarman Singh of Coy  
 (c) Date/Year of Birth 07/02/22  
 (d) Nationality Indian  
 (e) Address 180, B.S.F. BOP, Pathardubi, PS, Sahebganj, Coimbatore

7. Details of Know/suspected/unknown/accused with full particulars: S. Md. Rezaul Islam (Bang)  
(attach separate sheets, if necessary) S/O Md. Anwar, S. Musammat Munim

8. Reasons for delay in reporting by the Complainant/informant: subject fled away, S/O Md. Rezaul Islam along with his mate Chidi, S/O. Ishak (Sh. Chandrakhana PO, Ganghat, PS. Friban, Dist. Kingjram, Bangladesh)

9. Particulars of properties stolen/involved: (Attach separate sheets, if required) Mobile phone, PS. Sahebganj

10. Total value of properties stolen/involved

11. Inquest report/U.D. Case No. if any

12. FIR contents: (Attach separate sheets, if required) The subject in the complaint which is stated in FIR is included here with

13. Action taken: Since the above report reveals commission of offence(s) u/s 14A Foreigner Act  
I, SI Anthony Hara of Sahebganj PS, Coimbatore registered the case and took up investigation/directed SI. Parashankar Chakraborty to take up the investigation/transferred to PS 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.  
Signature of the Complainant  
 Signature of the Officer-in-Charge, Police Station Anthony Hara  
 Name SI ANTHONY HARA  
 Rank SI Sahebganj PS  
 Number, if any Coimbatore  
 Officer-in-charge  
 Sahebganj Police Station

Signature / Thumb Impression of the Complainant/informant