

Tribal Bangladeshi woman with others are in Indian jail. Immediate repatriation needed

Kirity Roy <kirityroy@gmail.com>

22 April 2022 at 14:51

To: NHRC Complaint <cr.nhrc@nic.in>

Cc: Home Ministry <hm@nic.in>, "Home Secretary Govt of W.B." <wb.secyhome@gmail.com>, SP Malda <maldasp@gmail.com>, "Bangladesh High Commission, New Delhi" <bdhcdelhi@gmail.com>, "Indian High Commissioner, Bangladesh" <hc@hcidhaka.gov.in>, WB Jail Minister <ujjalbiswas1954@gmail.com>

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

22 April 2022

Respected Sir,

I am writing this complaint regarding detention of a Bangladeshi woman in West Bengal and accusing and treating her 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 a case detail for your perusal.

In connection with Habibpur Police Station **Case no. 67/22** dated 24.02.2022 under section 14A (b)/14C of Foreigners Act, the following Bangladeshi woman was arrested:

1) Ms. Adori Soren, wife of Jugisti@Jugasti Baski @Baske, Age- 20 years, residential address:- Village Dewolia, P.O- Amda, P.S – Porsa, District –Nawgaon, Bangladesh

The victim is a Bangladeshi national, tribal woman, who was trying to cross over the international border and enter India when she was apprehended by BSF Coy Commander, 'E' Company, attached with 159 Battalion BSF BOP Kedaripara, and handed over to the Habibpur police station on 23.02.2022 at 4:15 PM. Police then registered one criminal case against the person apprehended and the victim was produced before the Malda court.

Our fact finding revealed that the arrested Bangladeshi woman entered India for the purpose of working in India as she is terribly poverty-stricken 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 help, 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 / slavery 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 person should be immediately repatriated to her own country and prosecution launched against her 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
National Convener, PACTI

The Court of Ld. Chief Judicial Magistrate,
Malda

(Through GRO(S) Malda)

Ref: Habibpur PS Case No. 67/22 Date: 24.02.2022 U/S-14A(b)/14C of Foreigners Act.

Sub: Forwarding of arrested accused persons.

Sir,

In forwarding herewith arrested (1) Jugisti @ Jugasti Baski (20 Yrs) S/O-Lagen @ Nagain Baski of Vill-Dewolia, P.O-Amda @ Amada, P.S-Porsa Dist-Nawgaon (BD) (2) Adori Soren (21 Yrs) W/O- Jugisti @ Jugasti Baski of Vill-Dewolia, P.O-Amda @ Amada, P.S-Porsa Dist-Nawgaon (BD) (3) Robin Murmu (24Yrs) S/O-Late Bahadur Murmu of Vill-Nandor @ Nandoi, P.O-Takipur, P.S-Gangarampur, Dist-Dakshin Dinajpur, W.B before the Ld. Court along with all relevant papers in c/w the above noted case under proper police escort.

The fact of the case in brief is that this PS received a written complainant from Ram Singhason Singh, Coy.Commander, 'E' Coy, 150 Bn BSF of BOP Kedaripara, PS-Habibpur, Dist-Malda against 02 BD Nationals namely 1. Jugasti Baski (20 Years) S/O-Nagain Baski of Vill-Dewolia, P.S-Porsa, P.O-Awada, Dist-Nawgaon BD 2. Adori Soren (21 Years) W/O- Jugasti Baski of Do. 3. Rabin Murmu(24Years) S/O-Lt Bahadur Murmu of Vill-Nandoir, P.O-Takipur, P.S-Gangarampur, Dist-Dakshin Dinajpur, W.B to the effect that on 23.02.2022 at around 16:15 hrs on specific information OP Party of Point No-10 noticed 03 suspected persons moving towards BD side from Indian side, the complainant along with his party apprehended them and on integration they disclosed their names and addresses as mention above. The BD Nationals admitted that they entered into Indian Territory from Bangladesh through clandestine route of IB Boder without any Passport, Visa etc with the help of the Indian tout. On search of their persons one keypad mobile phone (I-tel) with VI sim No 9380106520, one smart phone (OPPO) with jio sim No 7355553602 and Indian currency of Rs-305/- were recover and seized from their position.

During preliminary investigation it could be learnt that the accused persons namely (1) Jugisti @ Jugasti Baski (20 Yrs) S/O-Lagen @ Nagain Baski of Vill-Dewolia, P.O-Amda @ Amada, P.S-Porsa, Dist-Nawgaon (BD) (2) Adori Soren (21 Yrs) W/O- Jugisti @ Jugasti Baski of Vill-Dewolia, P.O-Amda @ Amada, P.S-Porsa Dist-Nawgaon (BD) and they entered into the Indian territory clandestinely without having any Passport/Visa with the help of Indian accused Robin Murmu (24Yrs) S/O-Late Bahadur Murmu of Vill-Nandor @ Nandoi, P.O-Takipur, P.S-Gangarampur, Dist-Dakshin Dinajpur, W.B. On interrogation, the accused persons admitted their direct involvement in this case. More shreds of evidence are forthcoming.

Therefore, I pray before your kind honour that the accused persons may kindly taken into Judicial Custody and detained till completion of investigation of the case. I do strongly object their release on bail.

Enclosure:
Original FIR, Memo of Arrest, Original Seizure list, Medical checkup slip.

Forwarded
25.02.22
Inspector-in-charge
HABIBPUR P. S.
Malda, West Bengal

Yours faithfully,
SI Asis Kumar Roy
(SI Asis Kumar Roy)
Habibpur PS, Dist: Malda
Date- 25.02.2022