Report on the Ongoing Harassment and Threats to Banglar Manabadhikar Suraksha Mancha (MASUM)

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Acknowledgement

This report is based on the findings of a Fact Finding mission conducted by MASUM in association with Human Rights Defenders Alert (HRDA) and FORUM-ASIA. The mission was organised on 1–3 November 2016 and members of the mission were senior jurists and eminent personalities comprising Justice (retd.) H. Suresh, Former Director General of Police, K. Subramanian IPS and Dr. Miratun Nahar. The Fact Finding mission recorded testimonies and interacted with relevant stakeholders. The preliminary and ground research was undertaken by Aqsa Agha, a PhD Scholar at Jawaharlal Nehru University. The final report is updated and edited by Anjuman Ara Begum of FORUM-ASIA.

Individuals, organisations and members of the Fact Finding mission offered enormous support in the preparation of this report. MASUM is grateful to the human rights defenders, victim families and survivors who recounted their experiences and shared perspectives to understand the situation of the HRDs associated/working with MASUM.

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Chapter 1: Introduction: MASUM

Banglar Manabadhikar Suraksha Mancha (MASUM)[1]was established in 1997 by a group of activist experts who had long experience working on human rights and civil liberties. MASUM's mission and vision are inspired by the spirit of the Universal Declaration on Human Rights (UDHR) while believing in its principle that the States have a prime responsibility to promote, protect, and implement human rights and fundamental freedoms. It implies State's responsibility to take all necessary measures to ensure that everyone can enjoy these rights in practice– individually and in association with others. With this vision, Human Rights Defenders (HRDs) associated with MASUM are working along the Indo-Bangladesh international border in the state of West Bengal, specifically in four districts – Cooch Behar, Murshidabad, Nadia and North 24 Paraganas.

MASUM acts as a platform for HRDs, grassroots human rights groups, and survivors collective. It is engaged in advocacy on the issues of torture and extra-judicial killing, through its District Human Rights Monitors (DHRMs) in different districts in West Bengal. MASUM aspires to minimise the systemic discrimination of marginalised people and communities residing along the international border.

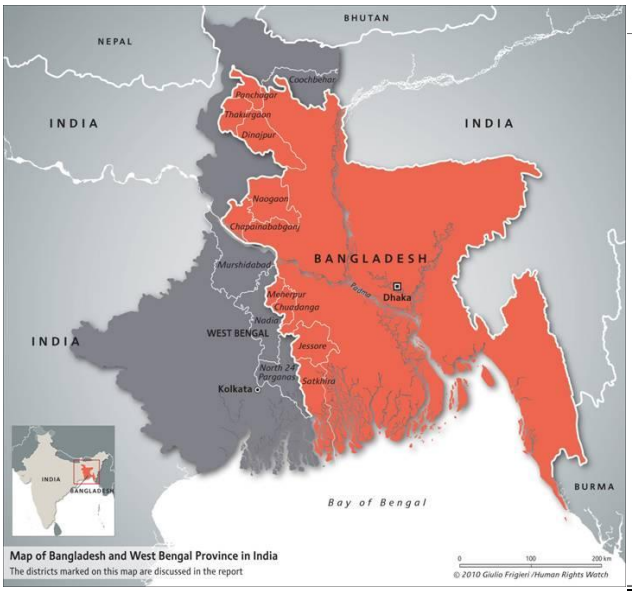
Most of these cases documented and reported by MASUM are on the issues of torture, imposition of illegal restrictions and atrocities committed by the West Bengal Police and Border Security Force (BSF) deployed along the Indo-Bangladesh border in West Bengal. MASUM has conducted more than 3,000 fact-finding missions, lodged more than 3,200 complaints before the Human Rights Institutions, Government offices, and United Nations bodies, and also provided medical and psychological support to more than 12,500 victims of torture and their families in West Bengal since 1997. Each case reported by MASUM has been well documented, often exposing blatant violation of law by law enforcement agencies. As a result of its work, MASUM has come under systematic reprisals from the perpetrators and their agencies.

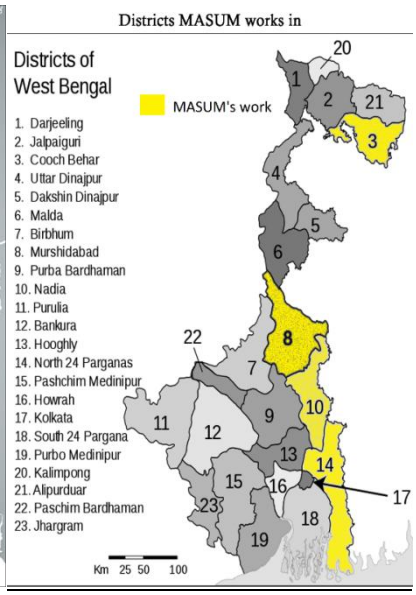
Area of Work

MASUM intervenes in the instances of custodial violence, custodial torture and deaths; illegal detention and arrests; police and BSF firing; extra-judicial killings; false implication in criminal cases; police inactions; sexual offences on women and children; forced eviction; and any kind of harassment and atrocities by security forces in West Bengal.

MASUM works in other important areas that cause distress to the people living in the bordering districts. These include right to food, campaign against death penalty, starvation deaths, enforced eviction, caste and tribal discrimination, criminal justice system, fight against impunity, violence against women, and land and citizenry rights for all, including the rights of people living in erstwhile enclaves of India and Bangladesh.

[1]For more details, visit website: www.masum.org.in





Modus Operandi

MASUM has recruited DHRMs in each of the four districts mentioned earlier. These DHRMs are local survivors of torture and have practical experience of the realities, local language and culture.

DHRMs are trained on the rights of the citizen, the laws, legal system, and duties of the State agencies. They act as watchdogs of violence committed against the people in their respective districts, document the cases and provide support. Over the years, they have established their credibility among the local population. They built up a community-level group of volunteers in the locality as the primary source of information, not only on the issues of torture and violence but also to monitor implementation of the government's social and economic schemes.

MASUM, through the DHRMs, undertakes joint fact finding missions where the DHRMs are tasked with identifying the victims, and documenting incidents of torture or any other violations by conducting field visits, enquiries and investigations. These reports are then lodged as complaints before the appropriate authorities and human rights institutions. DHRMs also create a database and follow up on the cases. MASUM also supports in organising periodic community-level dialogues among victims and their families along with medical camps to provide medical and psychological needs. MASUM endeavours to ensure social mainstreaming for the integration and social acceptance of the torture victims. MASUM regularly reports to international bodies, organisations and the UN Special Rapporteurs in an attempt to forge broader solidarities and accountability for prevention of human rights violations.

MASUM also organises regular workshops on human rights issues and torture in collaboration with different sections of society. Through public meetings and campaigns, it creates awareness on human rights issues committed by both State and non-State actors, formulates public opinion and creates pressure on authorities. To further the cause of human rights of the people residing along the Indo-Bangladesh border, it publishes books, periodicals, educational and information materials, leaflets, newsletters and booklets such as:

- A Bangla Periodical on Human Rights '*Manabadhikar*'.
- Compilation titled, "*TRIGGER HAPPY*" with Human Rights Watch on violence at Indo-Bangladesh Border.
- Compilation on torture and extra judicial killings with REDRESS and University of Bristol submitted to the Special Rapporteurs.

- Compilation on nation-wide custodial deaths in police custody: *Bound by Brotherhood* with Human Rights Watch.
- Handbooks on torture prevention, status of the legal aid system in West Bengal, border issues and rights issues in enclaves.
- Visual Documentary, - '*Persona Non Grata'* on enclaves; '*Post Mortem'* on faulty post mortem examination; and on the erosion of Padma river with governmental apathy
- Book on violation and violence at Indo Bangladesh Border– '*Killing Field'* by Mr. Eric Shovein
- A critical analysis on 25 years of National Human Rights Commission of India pursuant to the Paris Principles.

Alliances and Partners of MASUM:

MASUM has alliances with the following national and state level organisations:

- PACTI – Programme Against Custodial Torture and Impunity – mainly working in West Bengal, Uttarakhand, Odisha, Jharkhand, Meghalaya, Assam and Bihar.
- CADP – Campaign Against Death Penalty
- UBM – *Uchchhed Birodhi Mancha*–Network against eviction
- SOS Torture – International network – organised by World Organisation against Torture (OMCT)
- SANTI – South Asia Network against Torture & Impunity (Pakistan, Bangladesh, Nepal, Sri Lanka, Afghanistan and India)
- PCSDS – People's Commission on Shrinking Democratic Space
- AiNNI – All India Network of NGOs and Individuals working with National and State Human Rights Institutions
- FORUM-ASIA – Asian Forum for Human Rights and Development, Bangkok, Kathmandu
- A3T – Asian Alliance Against Torture, currently in Indonasia

Financial support

MASUM received financial assistance from United Nations Voluntary Fund for Victims of Torture (UNVFVT). MASUM does not receive foreign funds since its application for registration under the Foreign Contribution Regulation Act (FCRA onwards) has been rejected.

Impact

As a result of relentless fight against torture, consistency in providing legal and medical relief to the victims of torture and creating awareness, the outcomes and the impact of MASUM's work are encouraging. The incidents of torture by the BSF personnel have declined along the Indo-Bangladesh border, specifically in the four districts where MASUM works. MASUM has intervened in thousands of such cases and submitted complaints to the NHRC and other authorities. Though complaints are largely unheeded and unattended, in 33 complaints till July 2019, NHRC has awarded financial compensation for victims and their families. However, the compensation was made from the State's coffer and not from the offenders. The NHRC has not recommended for prosecution against the offenders in any case. In 2018 alone, MASUM lodged 184 complaints with NHRC on 18 different types of cases of human rights violations. Complaints filed by MASUM are primarily on marginalisation at erstwhile enclaves (24%), torture by the BSF personnel (16%), and torture of under trial prisoners by Police personnel (10%).

Moreover, a long-drawn campaign for immediate ratification of the UN Convention Against Torture (UNCAT) by India is underway. This has been done on the basis of data and documentation of torture and support provided to the victims by MASUM. This information has been recognised by both domestic and international human rights organisations in furthering their demand and campaign for the ratification of UNCAT. This has led to the discussion of ongoing abuses at domestic and international forums.

MASUM facilitated interactive sessions on violence against women, and safe drinking water and sanitation with civil society members, the victims/survivors, HRDs and the United Nations Special Rapporteurs on Extra-judicial executions during their visit to India.

MASUM has also succeeded in establishing that non-deliverance is not only limited to the questioning of the prevalent criminal justice system but also bringing to notice the scant respect with regard to international obligations by the State. MASUM's presence in the border areas sends a message to the perpetrators such as the BSF, police, judiciary and others, that even though impunity from prosecution and subsequent legal proceedings regarding the culture and practice of torture still persist, they are under constant watch. Its persistent efforts have successfully proven that the tortured survivor's right to redressal is a basic human right enshrined in various international human rights treaties and is recognised by several domestic laws in India.

Over the years, MASUM as an organisation and its DHRMs have been witnessing a series of targeted threats, attacks, judicial harassment and arrests on fabricated charges. This report is to account and document the harassment of MASUM and its DHRMs.

Chapter 2: The Context and Background of Conflict

India and Bangladesh share a 4,096km-long international border, the fifth-longest land border in the world, with West Bengal having the highest length of 2,217 km. Over the years, borders are securitised and militarised and people's movements that have persisted for thousands of years have been affected abruptly, leading to deprivation of border economy and rural livelihoods. This has created friction and resulted in conflict, tempting an armed response from the State. It remains a matter of grave concern that torture is routinely perpetrated in the peripheral areas of the Indo-Bangladesh border on the most economically and socially marginalised population who are often persecuted and branded as illegal migrants and cattle smugglers. There are innumerable reported cases of abuse by the West Bengal Police and Border Security Forces (BSF) documented by MASUM. These are committed in the form of arbitrary detention, extra-judicial killing, custodial death, torture and inhumane treatment in the name of controlling the illegal cross border movement of people and goods. In the last few years, incidents of enforced disappearance have also been reported.

This report intends to document instances of harassment of Human Rights Defenders (HRDs) who intervene in these cases. Most of these cases presented here are of the HRDs associated with MASUM and represent MASUM and its District Human Rights Monitors (DHRMs).

The case analysis by MASUM indicates that the victims belong to the most deprived sections of society including religious minorities (Muslims), Scheduled Castes (Dalits) and Scheduled Tribes (Aborigines). Each of the districts have specific problems in terms of economy and social development. People face economic challenges that are aggravated by the loss of their land due to river erosion in Murshidabad district. In Coochbehar district, it is the overall marginalisation due to prolonged delay in recognition of citizenship status to erstwhile enclave dwellers. These economic challenges and livelihood issues have led to an increase in illegal cross-border movements and activities such as cattle rustling, human trafficking and peddling of narcotics. Cattle smuggling is rampant and thousands of cattle are transported through the fields, destroying crops. Phensedyl, a cough syrup that is used as liquor in Bangladesh, is also a major commodity for illegal trade. The carriers of this illegal movement are lower middle class people living in a rural, economically backward area without adequate opportunities of livelihood. It is observed in the West Bengal-Bangladesh bordering areas that the villagers do not adequately benefit from the government's welfare schemes.

Field visits by MASUM suggest that illegal smuggling and trafficking are not possible without an unlawful nexus between corrupt BSF personnel, the local police, local political leaders, customs officials, and local governance representatives who have jointly established a smuggling syndicate. Practices of corruption and bribery are highly prevalent. Economically deprived people of the bordering villages are often coaxed by this nexus into smuggling and face torture by other law enforcement agencies. Apart from people's daily struggle to sustain, the BSF and police add to their woes by violating routinely the rights of the poor in the border. This syndicate operates with total immunity, goes unchecked and is unaccountable.

There are several instances where innocent people were tortured on mere suspicion. This is not only limited to unprovoked beatings but also indiscriminate shooting. The Indo-Bangladesh border is also infested with the use of the infamous pellet guns. Many victims are either blinded bypellets or are living with pellets inside their bodies. The justification given by BSF for killing the suspected smugglers or using lethal weapons is that their personnel retaliate in self-defence. The mere suspicion of a crime, such as smuggling, cannot, under any circumstances, be a justification for the use of lethal weapons. The Border Security Force (BSF) Act, 1968: The Police Act, 1861; The Criminal Procedure Code of India,

1973 (Cr.PC) and The Police Regulation of Bengal, 1943 do not permit physical aggression or highhandedness over civilians. In all the cases studied in this report, the suspects were mostly unarmed civilians who sometimes carried agricultural tools like sickles, sticks and knives. These atrocities include custodial killings as well. India's domestic law permits using 'all means necessary' if a person attempts to use force to resist arrest. Indian laws forbid causing the death of an accused or suspect except under 'special laws'. MASUM observed that 'right to self-defence' is routinely abused and no justice is provided despite persistent complaints by human rights organisations. This implies virtual conviction before judicial trial and implied justification for use of lethal force against those suspected of being engaged in smuggling or other illegal activities. Adverse reports by the law enforcement agencies often further victimise people who already face prolonged delay in accessing justice.

International Human Rights standards and position of India

International human rights standards prohibit torture and extrajudicial executions. Torture is prohibited by numerous International Covenants such as the Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1977 and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987(commonly known as the United Nations Convention against Torture – UNCAT). UNCAT is an international human rights treaty that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. UNCAT provides a two-pronged definition that expands the definition of torture to include both physical and mental torture. India has signed but is yet to ratify the UNCAT and its optional protocol.

The Government of India is yet to criminalise torture and enact an anti-torture law. In the absence of an anti-torture law, the existing domestic laws are inadequate to address torture and bring the perpetrators to justice. Through judicial interpretations, the Supreme Court incorporated the freedom from torture under Article 21 of the Indian Constitution, i.e., Right to Life. However, it has its own limitations. The shoot-to-kill policy for suspicious smuggling violates both national and international standards on the right to life and presumption of innocence, and is applicable to India. Several legal standards set by the judiciary are yet to be implemented strictly by the central government and the provincial governments as in the Prakash Singh case,[2] 2006 (Police Reform); D.K. Basu case,[3] 1996 (on arrest), Lalita Kumari case,[4],2013 (registration of complaint), Citizen for Democracy case,[5] 1995 (dignity of undertrial prisoner), etc. Prakash Singh's case is important as it issued directions regarding control and structural mechanisms of police. As a result, the culture of impunity is enforced and the lack of accountability of BSF and the state police has made justice elusive and reinforced legitimacy to a culture of abuse and injustice.

MASUM observed that, in most cases, human rights violations by BSF personnel are neither adequately investigated nor remedies are provided to the victims. Further, provisions like Section 197 of CrPC and other immunity clauses bar criminal proceedings without prior permission from the government and thus virtually ensure legal immunity to the BSF, police or other government officials. Section 197 states, "(1) When any person who is or was a Judge or Magistrate or a public servant and is not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction.(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government".

[2] http://www.lexpress.in/criminal-justice/police-reforms-in-india-prakash-singh-v-union-of-india-case
[3] https://indiankanoon.org/doc/501198/
[4] https://indiankanoon.org/doc/10239019/
[5] https://indiankanoon.org/doc/730702/

As per the BSF Act, allegations against BSF personnel are to be tried in an internal process though its internal Court. This process is discretionary and non-transparent where the seniors of the accused BSF personnel are the judges. Additionally, there are no publicly known cases where BSF personnel were convicted of a crime for violation of human rights that MASUM reported. MASUM has documented proceedings of such BSF inquiry and found that proceedings are often biased in favour of the accused and hence justice is not served.

Complaints are regularly filed by MASUM with the National Human Rights Commission (NHRC), National Minorities Commission (NCM), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for Protection of Child Rights (NCPCR) and their state counterparts against illegal detentions, torture, custodial deaths, extra judicial killings, abuse and other violations. Despite consistent efforts, justice has not been delivered in most of the cases reported to these commissions.

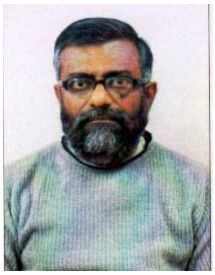
The Protection of Human Rights Act, 1993 determines the power and functions of NHRC. Section 19 of the Protection of Human Rights Act (PHRA), 1993 lays down that 'notwithstanding anything contained in this Act, while dealing with the complaints of violations of human rights by members of the armed forces, the NHRC may seek a report from the Central Government.' Hence, the NHRC can seek reports from the alleged perpetrators, the BSF, and subsequent action be taken by the Commission based on these reports. This goes against the principle of fairness and natural justice where the accused has a conflict of interest. Since it is a principle of natural justice that no person can judge a case in which they have an interest, it is imperative that an independent body like the NHRC must investigate the allegations by themselves, and perpetrators must be brought to trial. Section 30 of the PHRA, 1993 mandates the states to constitute Human Rights courts all over the country. This provision is still not implemented.

Nature of harassment of HRDs of MASUM

MASUM has played an important role by empowering the DHRMs to address human rights issues in peripheral areas. HRDs are working in remote areas with poor communication with the outside world. This increases their vulnerability and as a result are subjected to police harassment and often are implicated in frivolous cases with grievous criminal charges. The State administration as well as political agencies often influence the criminal justice system in an effort to suppress the voices of dissenting HRDs by branding them as Naxalites, Maoists, terrorists, cattle smugglers or subversive, as part of an attempt to completely delegitimise and discredit the advocates for human rights and civil liberties. This campaign to criminalise human rights activities increases challenges and risks to life and livelihood. Additionally, these attacks on the HRDs are not isolated incidents; rather it is a systematic effort by the syndicate created by a section of political class, state police, administration, BSF and socially and economically dominant actors. They are continuously trying to create hurdles in the activities related to the protection and promotion of human rights in order to protect their sinister interests.

Chapter 3: Cases of harassment faced by W/HRDs of MASUM

Kirity Roy



Mr. Kirity Roy is the Secretary of MASUM. Roy was born into a lower middle-class family of urban Kolkata, West Bengal and was brought up in the slums. He was involved in left wing politics for a long time (1960s to 1980s) and witnessed a series of extrajudicial killings that prompted him to become an HRD.

He, along with his friends founded MASUM in 1998, on the 50th anniversary of the Universal Declaration of Human Rights. His vision was to establish MASUM as a platform for human rights activists based in Kolkata to strengthen the human rights movement. Since then, Kirity has led MASUM and its advocacy initiatives. He was the National Convener of Programme Against Custodial Torture & Impunity (PACTI). In 2012, World Organisation Against Torture (OMCT) selected Mr. Roy from ten activists across the world during the auspices of the International Human Rights day. Amnesty International, while celebrating its 50th year anniversary, acknowledged Mr. Roy as one among the 50 Human Rights activists.

In June 2008, the West Bengal police filed several cases against Roy after he had organised a 'People's Tribunal on Torture' where 82 victims presented their ordeals of police torture to the public in the presence of eminent personalities who were present as jury members. The People's Tribunal was held at Moulali, Kolkata on June 9–10, 2008 and was attended by 1200 people. The panellists included Dr. Sayeeda Hamid, Member Planning Commission; Ms.Sreerupa Mitra Choudhary, Advisor, National Legal Services Authority; Justice (retired) Dilip Kumar Basu from Calcutta High Court; Ms. Mohini Giri, Former Chairperson, NCW; Ashok Chakravarti, Former Senior Director, NHRC among others. People's Tribunals are well established civil society formats and are practiced in a democracy and in India. It offers a platform where concerned citizens, including retired judges, senior retired civil servants, journalists, NGOs, and academics among others, come together on specific issues and hold a fact-finding investigation. However, soon after the meeting, police initiated a criminal case (Taltala Police Station FIR number 134/2008 dated 09.06.2008) under sections 120B (Criminal Conspiracy)/170 (Personating a Public Servant)/229 (Personating of a juror or assessor) IPC against Mr. Roy calling it an "unauthorised" People's Tribunal on Torture. On April 7, 2010, Mr. Roy was arrested by the Anti-Terrorist Cell of Kolkata Police and released on bail after a day. After intervention of Supreme Court of India, government of West Bengal and Kolkata Police, through Public Prosecutor withdrew the case in August 2019 even after filing charge sheet in 2010 and released all the accused persons.

In 2014, the police issued a warrant of arrest against Kirity Roy as co-accused in relation to a criminal case of cow smuggling filed against Ajimuddin Sarkar (Raninagar Police Station FIR number 364/2013 under section 12 of Passport Act), another HRD working with MASUM.

On August 5, 2016, police officials from Mekhligunj Police station in Cooch Behar district of West Bengal attempted to intimidate Kirity Roy while he was visiting the enclave dwellers of Mekhligunj rehabilitation and settlement Camps, along with other colleagues of MASUM.

Several international organisations approached NHRC seeking protection for Kirity Roy and HRDs of MASUM. A complaint was filed with the NHRC by HRDA. NHRC's final 'Action Taken Report' is awaited.

Harassment against Mr. Roy continued. On 19 July, 2018, Roy had led a procession to the office of the Sub Divisional Officer (SDO) of Dinhata sub division of Coochbehar. The intention of the demonstration was to demand that the officer sign a memorandum that outlined the violations committed by the BSF

and police personnel, and request him to take action on the issue. The office of the SDO had been informed about this rally and its agenda several days prior to the event. Later, Roy and the demonstrators were accused of violating sections 186, 341, 353, 427, 34 and 506 of the Indian Penal Code (Dinhata Police Station FIR number 259/2018 dated 19.07.2018). These charges relate to wrongfully restraining a person, the obstruction of and use of force against public servants to prevent them from carrying out their duties, committing mischief resulting in loss or damages, and participating in a criminal act in furtherance of the common intention of all. The complaint is still pending for disposal at NHRC.

On 2 February, 2019, Kirity Roy along with other members of MASUM had attended a public meeting on legal awareness in Hatkhola Chapra village on the invitation of the Hatkhola Panchayat (local self-governance body) members. After the meeting, people attending the meeting wanted to go to their homes but BSF had closed the fences, preventing return to the other side of the border village. Observing the situation, Roy and his associates asked the BSF personnel to open the gates and let the villagers go home because they did not have their lunch. However, the officers aggressively responded to the request and manhandled Roy and his colleagues. Later, on 4 February, Roy and six other people who had attended the meeting were sent a notice to appear in the police station for an inquiry into the FIR lodged against them by the BSF (Chapra Police Station FIR number 31/2019 dated 02.02.2019). They were accused of multiple criminal offences under section 186 (Obstructing public servant in discharge of public functions), 223 (escape from confinement negligently suffered by a public servant), 506 (Criminal intimidation), 509 (uttering any word or making any gesture intended to insult the modesty of a woman) and 34 (common intention) of the Indian Penal Code (IPC). The complaint is still pending for disposal in the NHRC.

Another additional case has been lodged by the BSF authority against Mr. Kirity Roy and other members of MASUM vide Jalangi Police Station FIR number 95/2019on 2 February, 2019 under Section 341 (wrongfully restraining any person), 120A (criminal Conspiracy), 186 (obstructing public servant to discharge public function), 189(threat of injury to public servant), 504 (intentional insult to provoke breach of peace) along with one non-bailable criminal offence 505(1) (publish or circulate any statements, rumour or report) of the Indian Penal Code for putting posters and speaking in street meetings against BSF's torture in the bordering villages.

In addition to the above harassments, MASUM is also deprived of receiving foreign aid for its human rights work. MASUM had applied for registration under FCRA with the Ministry of Home Affairs on 7 April, 2012. Under the Indian legal system, with FCRA registration it is allowed to receive foreign aid for human rights activities. MASUM submitted the required documents. However, the registration application was declined after 18 months. The ground of rejection is due to a *sub-judice* case against Kirity Roy. However, MASUM filed a writ application before the Delhi High Court that was duly disposed off.

Ajimuddin Sarkar

Mr. Ajimuddin Sarkar, hailing from Bardhanpur Village under Raninagar Police Station has been working with MASUM since 2011 as a DHRM in Murshidabad. He was previously associated with the Student Federation of India and Forward Bloc, a political party. He associated himself with MASUM in 2009 after witnessing rampant

police torture during the general election of 2009. MASUM conducted a fact-finding and filed a case in the High Court of Kolkata with assistance from Ajimuddin.

Ajimuddin continuously documented cases of extrajudicial killings and disappearance of youth by BSF, and advocated for justice. He has conducted 189 fact-findings till now. He has also played an important role in empowering victims and survivors, and in organising protest meets by them. Medical and awareness camps were also organised by him. He provides necessary assistance to the victims in filing complaints in the court of law against the perpetrators in uniform.

Because of his activism, Ajimuddin was charged under fabricated cases and currently he has been implicated in almost four cases including some serious charges under Narcotic Drugs and Psychotropic Substances Act (NDPS) and Protection of Children from Sexual Offences (POCSO) Act. Appeals and complaints have been made to NHRC regarding this. Till now three cases are disposed off by the NHRC, and three are *subjudice*. Because of the threat to and fear for his life, Ajimuddin couldn't return to his village for a while and the MASUM office space in Serampore was provided to him as a temporary refuge. Following are the cases from different police stations against Mr. Ajimuddin Sarkar:

- Raninagar Police Station FIR number 364/2013 under section 12 of Passport Act
- Domkol Police Station FIR number 1243/2014 dated 05.11.2014 under section 325 (Voluntarily causing hurt)/308 (Attempt to commit culpable homicide)/ 34 of IPC
- Raninagar Police Station FIR number 263/2015 dated 09.07.2015 in relation with NDPS case number 176/2015 under section 21(c) /29 of NDPS Act.
- Islampur Police Station FIR number 266/2015 dated 22.09.2015 under section 376/511/323/506/420 of IPC read with section 8/12 of POCSO Act

Other members and volunteers associated with MASUM have also been facing various forms of judicial harassment for conducting lawful human rights work. Few cases follow.

Mohar Mondal

Mr. Mohar Mondal, DHRM of 24 Paragans (North) was detained at Swarupunagar police station under 24 Parganas (North) district on 27 July 2014. He faced verbal abuse and was heckled at the police station by the officer-in-charge and on-duty police personnel. Mondal was threatened and was asked to quit his human rights activism. Mondal has conducted 220 fact finding missions on human rights and torture till date. UN Special Procedure system took up this case also[6].

Durbadal Majumdar

Mr. Durbadal Majumdar, DHRM for Jalpaiguri district was illegally detained in police custody at the New Jalpaiguri police post on 6 August 2015. He was implicated in a false case after assisting a woman in lodging a complaint against the police personnel. He has conducted 10 fact findings missions for MASUM in cases of various human rights violations.

[6] https://spcommreports.ohchr.org/TmSearch/Results

Ajijul Haque

Mr. Ajijul Haque, DHRM for Coochbehar district as well as in erstwhile enclaves was brutally beaten and tortured by miscreants in the presence of the police at the New Coochbehar station on 22 February 2015. Haque has been instrumental in conducting 158 fact finding missions.

Tilak Barman

Ms. Tilak Barman, DHRM of Coochbehar district was arbitrarily detained and mentally harassed by the police personnel of Mekhliganj Police Station in May 2016.She was kept at Mekhliganj Police Station lock-up whole night. She is working for the deprived erstwhile enclave dwellers of Coochbehar district and three rehabilitation camps and has conducted 70 fact finding missions till date. Again on 21 December, 2018 while putting up some posters campaigning against BSF's obstruction on cultivating agricultural land at Banskothal village, She was confined by the BSF and the posters were destroyed.

Najrul Islam

Mr. Najrul Islam joined MASUM in 2016 as DHRM for Murshidabad district. He was implicated with false charges under the Narcotic drugs law by Raninagar police station on 7 June, 2017 for his work assigned by MASUM (Raninagar Police Station FIR number 338/2017 in relation with NDPS case number 236/2017 dated 07.06.2017 under section 21 (c) /29 of NDPS Act). Since then he is at risk and does not feel safe to live in his village. He has conducted 61 fact finding missions as of now. MASUM has provided him with temporary alternative accommodation for the two years. He was granted interim bail by the Calcutta High Court on 10 July, 2019 but the final court order is still pending.

Sanjit Mondal

Mr. Sanjit Mondal, another DHRM of MASUM was also charged with three false NDPS (Narcotic Drugs and Psychotropic Substances) cases by the Raninagar and Jalangi police stations of Murshidabad district in 2017. He was under MASUM's shelter for almost two years and due to threat to his life, he could not return to his native village where his family lives. He was granted interim bail by the Calcutta High Court on 9 April, 2019 and the bail order concluded that charges against him might have been fabricated. Mondal has helped MASUM by conducting more than 100 fact finding missions on several human rights violations. Cases against him are:

- Raninagar Police Station FIR number 338/2017 in relation with NDPS case number 236/2017 dated 07.06.2017 under section 21 (c) /29 of NDPS Act

- Jalangi Police Station being FIR number 1006 of 2017 dated 20.12.2017 under section 21 (c) /29 of NDPS Act
- Raninagar Police Station FIR number 670/2017 in relation with NDPS case number 423/2017 dated 30.11.2017 under section 21 (c) /29 of NDPS Act**.**

Shila Bewa

Ms. Shila Bewa, an active member of MASUM was harassed and intimidated by BSF officers on 25 January 2019 while putting up posters around the river bank areas of Toltoli village in Ghospara Gram Panchayat. She was campaigning against the unchecked atrocities of BSF forces in Toltoli village. Bewa became a human rights defender and started her campaigning soon after her husband, Imajuddin Mondal was killed by BSF personnel on 17 April 2015. Bewa's complaint against the harassment was neglected by the police authority for a long time. Later on, due to campaigning by the civil society, her complaint was registered and her statement recorded.

Samiul Biswas

Mr. Samiul Biswas, volunteer of MASUM was illegally detained by BSF of the Mahakhola Border Outpost on charges of theft of Bangladeshi currency and SIM card (Chapra Police Station FIR number 188/2019 dated 08.03.2019 under section 379(Theft) of IPC), the evidence for which had been planted upon him on 18 March, 2019. The complaint still awaits registration at the Commission at the time of preparation of this report.

Ekramul Haque

Mr. Ekramul Haque, another volunteer of MASUM from Dinhata in Coochbehar district was implicated with false charges (Dinhata Police Station FIR number 209/2018 dated 20.06.2019) under section 341(wrongful Restraint)/143(Unlawful assembly)/186(Obstructing public servant in discharge of public duty)/188(Disobedience to order duly promulgated by the public servant)of IPC of carrying illegal arms on 20 June, 2019. Mr. Haque complained against the hazardous condition of a BSF construction site near his house and consequently was targeted. A complaint filed by BSF against him is undergoing investigation.

Hajrat Ali

Mr. Hazrat Ali, a volunteer of MASUM and a human rights activist in Madhya Balabhut village in Coochbehar district, talked to a few media personnel regarding an incident of encounter deaths of two youths from Dhubri of Assam by the BSF. Hazrat Ali criticised the BSF for the killings in the local media and newspapers. Hence, in order to threaten him, the BSF lodged a false complaint against him in the Tufanganj police station (Tufanganj Police Station FIR number 242/2019 dated 27.05.2019) under section 186(Obstructing public servant in discharge of public duty)/188 (Disobedience to order duly promulgated by the public

servant)/332(voluntary causing hurt to deter public servant from his duty) /353(Assault or criminal force to deter public servant from discharge of his duty)/34 of IPC.

From the aforementioned cases, it can be concluded that members of MASUM are facing severe threats and intimidation solely for their human rights work. This highlights the atrocities of the state security agencies. Repressive measures including intimidation, illegal arrests, detentions, fabricated cases, and torture are used regularly to criminalise the legitimate work and to silence MASUM.

MASUM, Human Rights Defenders Alert (HRDA) and several international NGOs have filed several joint complaints to the NHRC since 2008. However, justice for the affected human rights defenders and activists remains unsatisfactory and inadequate till today.

Chapter 4: Observation and Findings

- HRDs of MASUM are constantly targeted and physically assaulted and have received no adequate justice. For example, in Ajijul Haque's case, it was observed he was beaten up by the mob of two hundred people at New Cooch Behar train station in the presence of police and still no case was filed against the instigators. It has to be noted that Ajijul was alone and the mob attacked him in the police presence.
- There are instances reported where the BSF creates unnecessary hurdles to restrict movement and human rights activities, specifically near the international border.
- HRDs were targeted systematically with verbal abuse and gender based harassment. They face further harassment while seeking justice. For example, Tilakbala Burman's work was disrupted and her case against harassment by the police was not dealt with despite written communication.
- Records of MASUM show that from2011 to July 2019, the NHRC received 1191 complaints from MASUM. Cases remain *subjudice* for years and are then closed. NHRC has responded in almost fifty one per cent of the cases, i.e., 603, out of which 212 accounts for BSF torture, 191 for human rights violations committed by the police and 62 for extra-judicial killings committed either by the BSF or the police. The NHRC has closed, dismissed and disposed off 185 cases. The response from NHRC is inadequate and consumes unreasonable time.
- In regard to human rights violations by members of the armed forces, the NHRC could not take suitable actions due to section 19 of the Protection of Human Rights Act (PHRA), 1993 that allows no action to be taken against armed forces except to seek a report from the Central Government. Thereafter, NHRC makes recommendations along with the 'action taken' report by the Central Government. Therefore, in these 213 closed cases the decision is based invariably on the reports of the accused BSF that is sought from the Central Government or police personnel by the NHRC. In 191 cases of torture involving the state police, the NHRC has failed to conduct a single independent enquiry, where it has the power to do so. Reports received by the NHRC from authorities sometimes reflect bias as per the investigations carried out by MASUM. This leads to miscarriage of justice and is against the principle of natural justice that no one should be made a judge of his/her own cause. Since the reports are sought from the accused, there has not been even a single conviction in any of these cases.
- Section 19 of the Protection of Human Rights Act (PHRA), 1993 says that 'notwithstanding anything contained in this Act, while dealing with the complaints of violations of human rights by members of the armed forces, the NHRC may seek a report from the Central Government'. However, MASUM observed that in many cases the NHRC does not even initiate this process despite being a statutory body and having the power to do so. The Allahabad High Court in its April 2016 verdict on the State of UP vs. NHRC case is relevant here and says, "the Commission is not merely a body which is to render opinions which will have no sanctity or efficacy in enforcement. Under Clause (b) of Section 12, the Commission is entitled to approach the Supreme Court or the High Court for such directions, orders or writs as the Court may deem fit and necessary."
- MASUM has observed that BSF has not organised monthly meetings that were agreed upon between BSF and panchayat representatives of the villages along the international border. Depositions of the victims have confirmed that some BSF personnel are involved in implicating the villagers in false cases and demanding money to stop the harassment. MASUM believes that the political leadership of the area, the Members of Legislative Assembly and Parliament should undertake a discussion to arrive at a meaningful resolution at the level of the Panchayat. Judicial probe can marginally bring solutions and the political leadership has a greater role to play.
- It is observed that there has been a tendency of the police to pressurise and coerce complainants to withdraw complaints filed against the errant police officers and also personnel of BSF who are accused

of using torture against the civilians. Ajimuddin's interventions have resulted in positive movements towards justice. For instance in Rabi-ul-Islam's custodial death case, compensation has been ordered by the NHRC. MASUM believes that mechanisms need to be evolved to ensure accountability of the police since rule of law is weak in the bordering districts, and police enjoy unwarranted power

- Use of pellet guns creates fear among the general masses in the areas where MASUM is working. HRDs have been victims as well. Sanjit Mondal, DHRM in Murshidabad, was injured by pellet gun and according to the doctors, the injuries caused by pellets lead to lifelong neurogenic pain.
- Every case of killing, prima facie is an offence under the Indian Penal Code (IPC) Section 302, unless in a combat situation. Whether it was done in self-defence or not, has to be proven in a court of law and not at the police station. It was also noticed that all cases where police filed a chargesheet were taken up by the BSF and no one has ever been convicted. Not a single BSF personnel has ever been convicted in cases of torture and killing. These routine killings by the BSF and their brutal manner of operation have caused grave resentment among the public. It is important that a correct legal procedure must be followed by the police and the criminal courts must provide victims and witness protection for effective delivery of justice by the judiciary as well as by the NHRC or SHRC.
- Virtual immunity to BSF is provided by the BSF Act, 1968, Sections 46, 47 and Chapter VI. The Act makes it mandatory for the complainants to approach the Security Force Courts where regular court procedures do not apply. These courts do not provide either legal aid or any other legal rights to the victims. Even though assuming the Security Force Courts are validly constituted and are not arbitrary, irrational and harsh, not even a single case reported by MASUM has met any justice and not a single personnel has been convicted according to the information available to MASUM. The complaint procedure under the BSF Act is not like the criminal courts procedure constituted under the CrPC. This raises questions about its constitutionality and deserves a review.
- The BSF Act, 1968 and Rules, 1969 define 'Enemy' in Section 2(j) as follows: "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to this Act to take action." It is observed that the BSF has taken unarmed civilians as their "enemy" in complete misuse of their power**.** None of the persons killed or tortured come within the definition of "enemy" as they were not armed.
- The NHRC made specific observations and recommendations to BSF in February 2012, on recurrence of violence and unnecessary restrictions but till date BSF has not mended its ways and violence and illegitimate restrictions continue. The Director General of BSF agreed with his Bangladeshi counterpart on the no use of lethal weapons at border areas but despite this, the incidents of enforced disappearances, torture and killings caused by the BSF are regularly reported.

Chapter 5: Recommendations

Supreme Court of India

1. The Supreme Court should take *suomotu* cognizance of the systematic and rampant attacks on HRDs associated with MASUM and protect their right to associate and assemble which is grossly restricted through fabricated and false criminal proceedings, and constitute a special investigation team to enquire into the reported cases of human rights atrocities at the Indo-Bangladesh borders and attacks on HRDs perpetuated by the state police and BSF in the state of West Bengal.

   A writ petition was filed in 2012 in the Supreme Court of India by Banglar Manaadhikar Suraksha Mancha (MASUM) for issuing an order declaring sections 46 and 47 of BSF Act, 1968 ultra vires of Articles 14 and 21 of the Constitution of India. In the petition, a detailed list of victims of BSF atrocities committed until 2012 was incorporated. The matter is still pending in the Supreme Court of India and no order has been passed yet.

High Court of Calcutta

1. The High Court of Calcutta must order a judicial enquiry by a serving or former High Court Judge, into the incidents of human rights violations documented by MASUM over the period of last ten years and ensure that justice is served in all cases of extra judicial killings, disappearances, sexual violence and torture.
2. The High Court of Calcutta must take cognizance of the systematic and rampant attacks on HRDs associated with MASUM, as their right to associate and assemble is grossly restricted through fabricated and false criminal proceedings, and constitute a special investigation team to enquire into the reported cases of human rights atrocities at the Indo-Bangladesh borders and attacks on HRDs perpetuated by the state police and BSF in the state of West Bengal.

Government of India

1. Government of India should ratify the UNCAT and enact domestic laws to combat incidents of torture and impunity in India.
2. Instead of a militaristic approach on border control, India and Bangladesh should be friendly and must explore peaceful means of border administration. Efforts must be taken to diffuse tension and prevent border areas being highly vulnerable and risky for human rights defenders to work in.
3. In most of the bordering villages of India, the BSF camps must be away from villages of civilians which otherwise create an atmosphere of fear in the community. BSF should be posted on the border solely to restore a peaceful environment in the bordering areas leading to a proper workspace for human rights defenders.
4. Government must enhance livelihood options at the border areas and strengthen rural economy. For the purpose of reducing the rate of cross-border smuggling in the West Bengal-Bangladesh border areas, Border 'haats' (market place) should be established throughout the 2000km long border in every 5 to 6km interval at least once a week, and should be guarded by border guards of both countries. This will lead to improvement of border economy, generate revenue for the government and will enhance security for human rights defenders.

Government of West Bengal

1. Enact a law for the protection of HRDs (including journalists, activists, academics, etc.) in the state, with inputs from civil society and HRDs. The developments at the United Nations and laws implemented in other countries should be a reference point.
2. The government must ensure that HRDs are able to continue their legitimate peaceful work in an environment that does not restrict their freedom of speech, expression and assembly and no false and fabricated cases should be lodged against them to threaten and silence their work.
3. Appoint a commission of enquiry monitored by the High Court of Calcutta, to enquire into the incidents of human rights violations documented by MASUM over the period of at least the last ten years.

National Human Rights Commission

1. Constitute a Special Investigation Team comprising of NHRC's Members, former judges, Special Rapporteurs, academics, HRDs, etc., to enquire into the cases of human rights violations by BSF and state police documented by MASUM in the past one decade in West Bengal. The team after a detailed enquiry should submit the report to the NHRC for all necessary interventions.
2. Constitute a Special Investigation Team comprising of NHRC's Members, former judges, Special Rapporteur, academics, HRDs, etc. that documents and investigates into the systematic and rampant attacks on HRDs associated with MASUM and order for protection, psychological and financial aid to the HRDs and prosecution of the perpetrators.
3. Ensure that the guidelines of the NHRC on encounter killings and deaths in police custody are strictly adhered to and followed by the state of West Bengal.
4. Appoint an Independent Expert/Special Rapporteur/Special Monitor to periodically apprise the NHRC on cases of extra judicial killings, disappearances, sexual violence, torture and attacks on HRDs. The appointed rapporteur should not be a retired or serving officer from the administration, police or security forces but an eminent and distinguished personality having proven experience in human rights.

Annexures

Annexure 1:

Declaration on Human Rights Defenders

General Assembly Resolution A/RES/53/144 adopting the Declaration on human rights defenders

Elaboration of the Declaration on human rights defenders began in 1984 and ended with the adoption of the text by the General Assembly in 1998, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights. A collective effort by a number of human rights non-governmental organizations and some State delegations helped to ensure that the final result was a strong, very useful and pragmatic text. Perhaps most importantly, the Declaration is addressed not just to States and to human rights defenders, but to everyone. It tells us that we all have a role to fulfil as human rights defenders and emphasizes that there is a global human rights movement that involves us all. The Declaration's full name is the "**Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**" – with this longer title is frequently abbreviated to "**The Declaration on human rights defenders**".

1. *Legal character*

The Declaration is not, in itself, a legally binding instrument. However, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding – such as the International Covenant on Civil and Political Rights. Moreover, the Declaration was adopted by consensus by the General Assembly and therefore represents a very strong commitment by States to its implementation. States are increasingly considering adopting the Declaration as binding national legislation.

2. *The Declaration's provisions*

The Declaration provides for the support and protection of human rights defenders in the context of their work. It does not create new rights but instead articulates existing rights in a way that makes it easier to apply them to the practical role and situation of human rights defenders. It gives attention, for example, to access to funding by organizations of human rights defenders and to the gathering and exchange of information on human rights standards and their violation. The Declaration outlines some specific duties of States and the responsibilities of everyone with regard to defending human rights, in addition to explaining its relationship with national law. Most of the Declaration's provisions are summarized in the following paragraphs. [1] It is important to reiterate that human rights defenders have an obligation under the Declaration to conduct peaceful activities.

(a) Rights and protections accorded to human rights defenders

Articles 1, 5, 6, 7, 8, 9, 11, 12 and 13 of the Declaration provide specific protections to human rights defenders, including the rights:

- To seek the protection and realization of human rights at the national and international levels;
- To conduct human rights work individually and in association with others;
- To form associations and non-governmental organizations;
- To meet or assemble peacefully;
- To seek, obtain, receive and hold information relating to human rights;
- To develop and discuss new human rights ideas and principles and to advocate their acceptance;

- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;
- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To unhindered access to and communication with non-governmental and intergovernmental organizations;
- To benefit from an effective remedy;
- To the lawful exercise of the occupation or profession of human rights defender;
- To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
- To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad).

(b) The duties of States

States have a responsibility to implement and respect all the provisions of the Declaration. However, articles 2, 9, 12, 14 and 15 make particular reference to the role of States and indicate that each State has a responsibility and duty:

- To protect, promote and implement all human rights;
- To ensure that all persons under its jurisdiction are able to enjoy all social, economic, political and other rights and freedoms in practice;
- To adopt such legislative, administrative and other steps as may be necessary to ensure effective implementation of rights and freedoms;
- To provide an effective remedy for persons who claim to have been victims of a human rights violation;
- To conduct prompt and impartial investigations of alleged violations of human rights;
- To take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration;
- To promote public understanding of civil, political, economic, social and cultural rights;
- To ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as ombudsmen or human rights commissions;
- To promote and facilitate the teaching of human rights at all levels of formal education and professional training.

(c) The responsibilities of everyone

The Declaration emphasizes that everyone has duties towards and within the community and encourages us all to be human rights defenders. Articles 10, 11 and 18 outline responsibilities for everyone to promote human rights, to safeguard democracy and its institutions and not to violate the human rights of others. Article 11 makes a special reference to the responsibilities of persons exercising professions that can affect the human rights of others, and is especially relevant for police officers, lawyers, judges, etc.

(d) The role of national law

Articles 3 and 4 outline the relationship of the Declaration to national and international law with a view to assuring the application of the highest possible legal standards of human rights.

Annexure 2

Pledge of India before OHCHR

United Nations A/73/394

General Assembly

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Seventy-third session
Agenda item 116 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of members of the Human Rights Council

Note verbale dated 29 August 2018 from the Permanent Mission of India to the United Nations addressed to the President of the General Assembly

The Permanent Mission of India to the United Nations presents its compliments to the Office of the President of the General Assembly and has the honour to refer to the candidature of India to the Human Rights Council for the term 2019–2021, at the elections to be held during the seventy-third session of the General Assembly.

In accordance with General Assembly resolution 60/251, the Permanent Mission of India has the further honour to transmit herewith the voluntary pledges and commitments made by India, reaffirming its commitment to the promotion and protection of human rights (see annex).

The Permanent Mission of India requests that the present note and its annex be circulated as a document of the General Assembly, under agenda item 116 (d).

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Please recycle

Annex to the note verbale dated 29 August 2018 from the Permanent Mission of India to the United Nations addressed to the President of the General Assembly

Candidature of India to the Human Rights Council, 2019–2021

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

1. The ancient Indian wisdom of *Vasudhaiva Kutumbakam* sees the world as one family with an ethos of openness and respect for diversity, coexistence and cooperation. With one sixth of the global population, India is home to a multi-ethnic, multireligious, multilingual population that has lived together for millennia.

2. India has a long tradition of promoting and protecting human rights. This is reflected in the vision of the nation's founding fathers who framed the Constitution of India. The Constitution enshrines India's commitment to human rights by guaranteeing to its citizens fundamental political and civil rights and provides for the progressive realization and enforcement of economic, social and cultural rights.

3. These constitutional provisions underpin the national identity of 1.25 billion people. The most basic of several fundamental rights for both citizens and non-citizens is the right to life and liberty, as set out in article 21 of the Constitution.

4. As the world's largest democracy, India's secular polity is complemented by an independent judiciary, a range of national and state-level commissions that monitor compliance with human rights, a free press and a vibrant and vocal civil society. A series of affirmative measures are in place to help the more vulnerable and marginalized and to address issues of social exclusion, deprivation and disadvantage that may be faced by such groups.

5. The National Human Rights Commission of India — an independent and dynamic body that is accredited as an "A" status institution by the Global Alliance of National Human Rights Institutions — monitors human rights developments in India and shares its experience and expertise with its counterparts in other countries.

6. India's engagement with the Human Rights Council has been guided by the significance of the United Nations body in framing the international discourse on the human rights agenda. For India, the promotion and protection of human rights is essential to achieving the ultimate goal of socioeconomic advancement of all people on this planet.

7. Its interest in serving on the Council is rooted in its belief that the promotion and protection of human rights is best pursued through dialogue, cooperation and constructive and collaborative engagement, which would help in shaping a better collective future for all. India's presence on the Council would continue to bring a pluralistic, moderate and balanced perspective to bridge the various divides or differences therein.

8. India has consistently demonstrated in practice its commitment to human rights and fundamental freedoms. In May 2017, for the third time in less than 10 years, India's human rights record was reviewed under the universal periodic review mechanism of the Human Rights Council. India also submitted its voluntary national review on the implementation of the 17 Sustainable Development Goals under the 2030 Agenda for Sustainable Development at the high-level political forum on sustainable development of the Economic and Social Council, held in July 2017. Both of these voluntary and State-driven processes elicited wide interest.

9. India maintains that sustainable lifestyles and sustainable patterns of consumption and production are important for achieving inclusive sustainable development. Major initiatives of the Government of India, such as Beti Bachao, Beti Padhao (a programme to celebrate girls and enable their education), Swachh Bharat (Clean India), Jan Dhan Yojana (Bank Accounts for All), Smart Cities, Make in India, Digital India, Skill India or Startup India, mirror the targets of the 17 Goals for achieving the 2030 Agenda.

10. India attaches the utmost priority to poverty eradication and achieving inclusive sustainable development. The Government's motto, *sabka saath*, *sabka vikas*, that is, "all together and development for all", reflects India's commitment to achieving inclusive development in the spirit of "leaving no one behind". In all its policies, India seeks to ensure inclusive development and the protection of the rights of vulnerable groups.

11. A similar commitment ensured the success of the actions on climate of the parties to the landmark Paris Agreement under the United Nations Framework Convention on Climate Change. India has been an active participant in the deliberations of the Convention and all international forums with respect to efforts to combat climate change. India has articulated its belief in an ethical and people-centric approach to climate change by espousing "climate justice" and a sustainable lifestyle. India played a constructive role in aiding the early entry into force of the Paris Agreement by ratifying it in October 2016 and in support of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. The Supreme Court of India has recognized the right to a clean environment as part of an individual's right to life guaranteed by the Constitution.

12. India recognizes the urgent need to ensure universal access to affordable, reliable, sustainable and modern energy to combat climate change and believes that solar energy offers a clean, climate-friendly and inexhaustible energy resource and an unprecedented opportunity to bring energy security to people. India co-chaired the founding conference of the International Solar Alliance with France, held in New Delhi on 11 March 2018. India extended $27 million towards hosting the Alliance secretariat, created a corpus fund for the Alliance, offered training support for member countries of the Alliance at the National Institute of Solar Energy and provided support for demonstration projects for solar home lighting, solar pumps for farmers and other solar applications.

13. India believes that the United Nations should have the necessary resources for its activities and has been a regular contributor to the Organization. In 2017, India announced the establishment of an India-United Nations Development Partnership Fund in association with the United Nations Office for South-South Cooperation. India has significantly scaled up the contribution to the Fund through a staggered contribution of $100 million. These resources are non-earmarked in the spirit of sustained, predictable funding for the Sustainable Development Goals and South-South cooperation.

14. In a unique initiative, India launched a satellite in 2017 that focuses on supporting countries in its neighbourhood in such areas as communication, broadcasting and Internet services, disaster management, telemedicine, tele-education and weather forecasting.

15. An important plank of India's development agenda has been its push towards good governance and the creation of a knowledge society. The Digital India programme seeks to transform India into a digitally empowered society through increased connectivity, better access to knowledge, delivery of services and e-governance through digital means.

16. Apart from improving governance structures, India's development policy focuses on ensuring social security, the right to work in just and favourable conditions and a range of socioeconomic entitlements for all citizens. For example, India has continued its efforts to address child malnutrition. Coverage of the Integrated Child Development Scheme has been expanded to include better nutrition, health and overall development of children under 6 years of age. The Scheme also provides nutritional and health support to pregnant and lactating mothers. India continues to work towards effective implementation of the Midday Meal scheme in government-run schools.

17. India is committed to doubling farmers' income by 2022. The government strategy includes emphasis on irrigation for more crop per drop, provision of quality seeds and nutrients according to the soil quality of each farm, large investments in warehouses and cold chains to prevent post-harvest losses, promotion of value addition through food processing, implementation of national agricultural markets and e-platforms for such markets, risk mitigation, introduction of crop insurance schemes at a lower cost and promotion of allied activities, such as in dairy-animal husbandry, poultry farming, beekeeping, horticulture and fisheries management.

18. India remains a young nation; over 60 per cent of its population is below the age of 35. India seeks to be the "skill capital" of the world through the Skill India initiative and is working with several other countries with a focus on getting its youth to acquire the requisite skills for global needs.

19. The Government has enacted the Child Labour (Prohibition and Regulation) Amendment Act, 2016, which came into force in 2016. The amendment, inter alia, covers the complete prohibition of employment or work of children below 14 years of age and the prohibition of employment or work of adolescents between 14 and 18 years of age in hazardous occupations and processes. These amendments have brought the legislation in conformity with the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO). With the ratification of these conventions, India has now ratified six out of eight core conventions of ILO.

20. India has taken various steps to promote the equal participation of women in the workforce. To ensure a safe and dignified work environment and to facilitate the overall socioeconomic empowerment of women, India has enacted a law requiring employers to redress in an effective manner complaints of sexual harassment and to take other measures necessary for fostering a gender-sensitive, safe working environment for women.

21. The Government recognizes that women bear a large share of familial caregiving responsibilities, which has an adverse impact on their optimal participation in the workforce, and is committed to restructuring workspaces in order to make them more sensitive to women's social circumstances. The Maternity Benefit (Amendment) Act, 2017 provides extended maternity leave, day-care facilities and flexible working hours to facilitate equal access for women to employment opportunities.

22. India remains deeply committed to reinforcing and accelerating the efforts made towards combating human trafficking. Through amendments to criminal laws, India now provides stringent punishment for trafficking. India recognizes that a law enforcement response is only a partial step towards addressing the multiple human rights violations suffered by a trafficked person. Schemes are being put in place for the rehabilitation of survivors of trafficking.

23. India has been at the forefront of recognizing the equal rights of transgender persons. In a landmark judgment, the Supreme Court also recognized the rights of

transgender persons under the law. The Transgender Persons (Protection of Rights) Bill, 2016 is under consideration by the Parliament of India.

24. India has made significant progress in addressing the special needs of persons with disabilities through its Accessible India Campaign as well as legislative action on the rights of persons with disabilities and of persons with mental health issues. India remains committed to providing an enabling environment to persons with special abilities.

25. Recognizing people's right to a clean environment, India has launched the Swachh Bharat campaign. This is a nationwide programme that aims to facilitate collective behavioural changes regarding practices of sanitation through community-led initiatives.

26. India is proud of its rich and diverse cultural heritage. Safeguarding the rights of minorities forms an essential core of its polity. The Constitution enshrines various provisions for the protection of the rights and interests of minorities. Article 16 guarantees that in matters of public employment, no discrimination shall be made on the grounds of race, religion, caste or language, among others. Article 25 guarantees freedom of religion to every individual. Article 30 gives minorities the right to establish and administer educational institutions of their choice. India implements various schemes for the inclusion of minorities in education and socioeconomic empowerment.

27. The right to free speech and expression occupies its rightful place at the core of the Constitution. As the world's largest multilayered democracy, India fully recognizes the importance of free speech and expression.

28. Against this backdrop, India is presenting its candidature to the Human Rights Council for the term 2019–2021, the elections for which will be held at the General Assembly in New York in November 2018. India makes the following voluntarily pledges and commitments:

(a) India will continue to uphold the highest standards in the promotion and protection of human rights;

(b) India will continue to strive for the full realization of civil, political, economic, social and cultural rights, including the right to development;

(c) India will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens;

(d) India will continue to cooperate with States, upon request, in their implementation of human rights through capacity-building by means of technical cooperation, dialogue and exchange of experts;

(e) India will continue to strive to promote the work of the Human Rights Council in accordance with the principles of sovereign equality, mutual respect, cooperation and dialogue;

(f) India will continue to strive to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all;

(g) India will continue to support international efforts to combat racism, racial discrimination, xenophobia and related intolerance;

(h) India will continue to engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms;

(i) India will continue to support the Office of the United Nations High Commissioner for Human Rights, including through regular voluntary contributions;

(j) India will continue to cooperate with special procedures, accept requests for visits and respond to communications;

(k) India is committed to implementing the recommendations it accepted during the third cycle of the universal periodic review;

(l) India remains committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(m) India will continue to cooperate with treaty monitoring bodies and engage constructively with them in the context of fulfilling its human rights obligations;

(n) India will continue to strengthen the implementation of the human rights treaties that it has ratified;

(o) India will maintain the independence, autonomy and genuine powers of investigation of national human rights bodies, including its National Human Rights Commission, National Commission for Women, National Commission for Protection of Child Rights, National Commission for Minorities, National Commission for Scheduled Castes and Scheduled Tribes and National Commission for Backward Classes, as mandated by the Constitution and national legislation;

(p) India will continue to foster a culture of transparency, openness and accountability in the functioning of the Government;

(q) India will continue to foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights;

(r) India will continue its strong support for and steadfast commitment to working with fellow developing countries and the United Nations development system towards collectively achieving the Sustainable Development Goals;

(s) India will continue to pursue the necessary domestic actions to implement the 2030 Agenda, with an overarching focus on poverty eradication and a balanced emphasis on social development, economic growth and environmental protection.

Annexure 3

Letter of Forum Asia to NHRC on protection of Human Rights Defenders of MASUM

FORUM-ASIA Asian Forum for Human Rights and Development

Asian Solidarity and Human Rights for All

Memorandum in Support of
Banglar Manabadhikar Suraksha Mancha (MASUM)

13 May, 2019
New Delhi

To,
Justice (Retd.) H.L. Dattu
The Chairperson
National Human Rights Commission
Manav Adhikar Bhawan
Block-C, GPO Complex, INA
New Delhi- 110023

Subject – Human Rights Defenders – MASUM – Urgent need to provide protection for human rights group Banglar Manabadhikar Surakhsa Mancha

Dear Sir,

We urgently request you to intervene on the systemic and persistent attacks and harassment of human rights defenders and volunteers associated with Banglar Manabadhikar Suraksha Mancha (MASUM)[1], a prominent human rights organization based in West Bengal.

MASUM is a platform of HRDs, engaging on the issues of torture and extra-judicial killing, through its district human rights monitors in different districts in West Bengal. It engages with various human rights groups, social movements and survivors' collective to minimize the systematic discrimination of marginalized people and communities. Since its inception in 1997, MASUM has been actively engaged in reporting and intervening in human rights cases, particularly concerning the violence committed by law enforcement agencies in West Bengal.

Most of these cases exposed torture, illegal restrictions and atrocities committed by the West Bengal Police and the Border Security Force (BSF) deployed along the Indo-Bangladesh border. MASUM has so far conducted more than 3000 fact-finding missions, lodged more than 3200 complaints before the Human Rights Institutions, Government offices, and United Nations bodies and provided medical and psychological support to more than 8500 victims of torture and their families in West Bengal since 1997. Each case reported by MASUM has been well documented and exposed blatant breaches of the law by law enforcement agencies. As a result of its work, MASUM has come under systematic attack from the perpetrators and their agencies.

[1] http://masum.org.in/

FORUM-ASIA has been continuously informed of incidents of attacks, systematic harassment, physical intimidation, illegal arrest, detention and persecution against associates of MASUM for the last few years due to their human rights work. MASUM had applied for a registration under Section 11(1) Foreign Contribution (Regulation) Act 2010 with the Ministry of Home Affairs, Government of India on April 7, 2012. MASUM submitted the all necessary documents but the application was rejected after several months. Registration is mandatory to access foreign aids, funding or government help to conduct any formal program or activities. FORUM-ASIA believes that the systematic attacks on human rights defenders (HRDs) goes against the spirit of the UN Declaration on Rights of Human Rights Defenders 1998 and fundamental rights of association and assembly as enshrined in Article 19 of the Indian Constitution. The lack of adequate support from the state administration specially police department in protecting the HRDs sends out strong warning messages indicating criminalization of human rights activities in the country and creates fear and adverse environment enhancing vulnerability of HRDs.

Below is a summary of the incidents:

Mr. Kirity Roy, Secretary of MASUM, has been charged with several fabricated cases in course of defending rights of people from state abuse. Anti-Terrorist Cell of Kolkata Police had arrested Kirity on April 7, 2019 for coordinating a People's Tribunal, a national project supported by the European Instrument for Democracy and Human Rights (EIDHR) on preventing torture in India, in June 9-10, 2018. The police registered a case against MASUM claiming the tribunal to be illegal under sections 170 (Personating a public officer)/ 179 (refusing to answer public servant authorized to question)/ 229 (personation of a juror or assessor)/120 B (Criminal Conspiracy) of India Penal code against Kirity and others. The complaint is still lying to your Commission without registration.

On 19 July, 2018, Kirity had led a procession to office of Sub Divisional Officer (SDO) of Dinhata sub division of Coochbehar. The intention of the demonstration was to go to the office and demand the officer to sign a memorandum, which outlined the violations committee by BSF and police personnel from his office, and request him to take action on the issue. The office of the SDO had been informed about this rally and its agenda days prior. Later, Kirity and the demonstrators were accused of violating sections 186, 341, 353, 427, 34 and 506 of Indian Penal Code. The charges relate to wrongfully restraining a person, the obstruction of and use of force against public servants to prevent them from carrying out their duties, committing mischief resulting in loss or damages, and participating in a criminal act in furtherance of the common intention of all. The complaint is still pending for disposal to your Commission (NHRC Case No. 135/25/6/2019).

On 2 February, 2019, Kirity Roy along with other members of MASUM had attended a public meeting on legal awareness in Hatkhola Chapra village. After the meeting, people attending the meeting wanted to go to their homes but BSF had closed the fences to go to the other side of the village. Observing the situation, Kirity and his associates asked the BSF personnel to open the gates and let the villagers go home because they have not had their lunch. However, the officers aggressively responded to the request and manhandled Kirity and his colleagues. Later on 4 February, he and six other people who had attended the

meeting were sent a notice to appear in the police station for an inquiry into the FIR lodged against them. They have been accused of multiple criminal offences under section 504, 505(1), 341, 120(A), 186 and 129 of Indian Penal Code (IPC) including non-bailable offences against public peace and criminal conspiracy. The complaint is still pending for disposal to your Commission (NHRC Case No. 25/25/14/2019).

Other members and volunteers associated with MASUM have also been facing various forms of judicial harassment for conducting their legitimate human rights work:

- Mr. Ajimuddin Sarkar, District Human Rights monitor has been implicated in several false and connoted criminal charges by Murshidabad district police. He was behind bars for 70 days. In September 2015, Mr. Sarkar was implicated in two criminal cases by Islampur Police Station.
- Mr. Kirity Roy is co-accused in two criminal cases initiated by the police in Murshidabad district (NHRC Case No. 1649/25/13/2014).
- Mr. Mohar Mondal, District Human Rights Monitor of 24 Paragans (North) was detained at Swarupunagar police station under 24 Parganas (North) district on 27 July, 2014. He faced verbal abuses and heckled at the police station by the officer in charge and on duty police personnel. Mr. Mondal was threatened and warned to withdraw himself from human rights activism.
- Mr. Durbadal Majumdar, District Human Rights Monitor for Jalpaiguri district was illegally detained in police custody at New Jalpaiguri police post in August 2015. He was implicated in a false case for helping a woman (NHRC Case No. 1264/25/10/2015).
- Mr. Ajijul Haque, District Human Rights Monitor for MASUM for Coochbehar district and other enclave dwellers were brutally beaten by hooligans in the presence of the police at the New Coochbehar station in February 2015 (NHRC Case No. 395/25/6/2015).
- Ms. Tilak Barman, District Human Rights Monitor of District Coochbehar was illegally detained and mentally harassed by the police personnel of Mekhliganj Police Station in May 2016. She is working for the deprived erstwhile enclave dwellers of Coochbehar district and three rehabilitation camps (NHRC Case no. 668/25/6/2016).
- Ms. Shila Bewa , an active member of MASUM was harassed and intimidated by BSF officers on 25 January 2019, while putting up posters around the river bank areas of Toltoli village in Ghospara Gram Panchayet (NHRC Case No. 200/25/13/2019).
- Mr. Samiul Biswas, volunteer of MASUM was illegally detained by BSF of the Mahakhola Border Outpost on charges of theft of Bangladeshi currency and SIM card, the evidence for which have been planted on him in 18 March 2019. The complaint is still waiting for registration at the Commission.

MASUM is facing severe threats and intimidations from the state security agencies. The state is using all repressive measures including intimidation, illegal arrest, detention, fabricated cases, and torture to criminalise the legitimate work of MASUM.

FORUM-ASIA

Asian Forum for Human Rights and Development

Asian Solidarity and Human Rights for All

MASUM, Human Rights Defenders Alert (HRDA) and several international NGO have filed several joint complaints to the NHRC since 2008 onwards, however, justice for the affected human rights defenders and activists remains elusive till today.

In 2018 alone MASUM lodged 184 complaints with NHRC on 18 different types of cases of human rights violations. Complaints filed by MASUM are on marginalization at erstwhile enclaves, (24%), torture by the BSF personnel (16%), and torture of under trial prisoners by Police personnel (10%).

Taking into consideration the above – mentioned facts and circumstances, FORUM-ASIA appeals to the NHRC to urgently intervene in the cases against the human rights defenders and members of MASUM. NHRC should use all its power as enshrined in the Protection of Human Rights Act 1993 and undertake an independent review of the harassment of MASUM activists and volunteers and suggest strong measures to the West Bengal Government to hold the perpetrators accountable and its law enforcement authority to stop the ongoing harassment and systematic attacks.

Further, FORUM-ASIA strongly recommend National Human Rights Commission to,

- Assign a few competent senior lawyers through the West Bengal State Legal Service Authority in the state and relevant districts to defend the HRDs in all the criminal cases registered against them for carrying out legitimate human rights work, and provide effective remedies to MASUM as well as other HRDs.
- Issue direction to the State of West Bengal and the BSF to provide remedies and reparation to MASUM and its HRDs, such as an apology, re-assurance of non-repetition and sufficient compensation to make up for all the loss of reputation and other losses suffered over all these past years.
- In view of the consistent work that human rights defenders in West Bengal has been engaged in all these years, proactively engage in introducing policies to ensure physical and psychological integrity of human rights defenders in West Bengal.

Thanking you,

Sincerely,

(John Samuel)

Executive Director

S.P.D Building 3rd Floor, 79/2 Krungthonburi Road, Khlongtonsai, Khlongsan, Bangkok 10600, Thailand
Tel: +66 (0) 2 108 2643-45 Fax: +66 (0) 2 108 2646
Website: www.forum-asia.org, Email: info@forum-asia.org

Annexure 4

Letter of Frontline Defenders to NHRC on attack on Human Rights Defenders of MASUM

FRONT LINE DEFENDERS

URGENT APPEAL

DUBLIN
Front Line Defenders – Head Office
Second Floor, Grattan House
Temple Road, Blackrock
Co. Dublin, A94 FA39, Ireland

info@frontlinedefenders.org
www.frontlinedefenders.org

phone +353 1 212 3750
fax +353 1 212 1001

BRUSSELS
Front Line Defenders – EU Office
Square Marie-Louise 72
1000 Brussels
Belgium

euoffice@frontlinedefenders.org
www.frontlinedefenders.org

phone +32 2 230 9383
fax +32 2 230 0028

8 February 2019

India: MASUM, including human rights defender Kirity Roy, targetted by Border Security Force Officers

Kirity Roy and three other human rights defenders of Banglar Manabadhikar Suraksha Mancha (MASUM), **Ramen Moitra**, **Subhrangshu Bhaduri**, and **Sujoy Singh Roy**, were detained, threatened, and verbally and physically abused by the Border Security Force (BSF) officers on 2 February 2019. They are facing a false complaint from the BSF and are at risk of arrest and legal harassment.

Kirity Roy is the secretary of MASUM, a non-governmental human rights organisation based in Howrah, Kolkata, West Bengal, near the border with Bangladesh. He is also the National Convener of the Programme Against Custodial Torture and Impunity (PACTII). The human rights defender and MASUM have been documenting human rights violations against civilians including extrajudicial killings, enforced disappearances, custodial death, torture and sexual violence, particularly on the Indo-Bangladesh border, committed by officers of the Border Security Force (BSF) and other state agents.

On 2 February 2019, Kirity Roy and three human rights defenders from MASUM, Ramen Moitra, Subhrangshu Bhaduri, and Sujoy Singh Roy, attended a legal awareness program organised by local community leaders in the border area of Chapra, Nadia District in West Bengal. Over the past several months, the local community has been protesting human rights violations committed by BSF officers in their villages through poster and other campaigns. The BSF responded with violence, threats, and false charges against community members and leaders, including members of MASUM.

While returning from Amra Simantabasi's ('We the Bordering People') public meeting on 2 February, Kirity Roy witnessed several hundred people, who had attended the meeting, being stopped by BSF officers at the border fence gate. The Indian Government has constructed a border fence along the Indo-Bangladesh border, which in reality in certain places extends inland for up to 10-12 kilometers, cutting across villages and affecting people's mobility and livelihood. The border is controlled by armed BSF officers, who in this instance were preventing people from returning to their homes and villages, within India's territory.

When questioned by Kirity Roy as to legality of these actions, the BSF's officer-in-charge responded aggressively and threatened the defender. The officer was then joined by at least eight other armed BSF officers who prevented Kirity Roy and his colleagues from leaving the area. The officers verbally and physically abused them and took photographs and video recordings of the human rights defenders without their consent. When Kirity Roy and the MASUM staff attempted to record the abuse on their phones, the BSF officers confiscated their devices and assaulted Kirity Roy.

The BSF officers repeatedly accused the human rights defenders of attempting to instigate violence and unrest. They threatened Kirity Roy by saying that he would face dire consequences if he or the MASUM staff continued to travel to the border areas without "permission from them". The four

Front Line Defenders Board of Trustees
Denis O'Brien, Noeline Blackwell, Jim Conway, Mary Lawlor, Maria Mulcahy, Kieran Mulvey, Mary Jane Real (Philippines), David Sykes, Arnold Tsunga (Zimbabwe)

Front Line Defenders International Advisory Council
James L. Cavallaro, Maryam Elahi, Michel Forst, Hina Jilani, Maina Kiai

Front Line, The International Foundation for the Protection of Human Rights Defenders trading as Front Line Defenders, is registered in Ireland as a company limited by guarantee and not having a share capital. Registered Office: Second Floor, Grattan House, Temple Road, Blackrock, Co Dublin, A94 FA39, Ireland.

Company No. 593190; Registered Charity No. 20045241; CHY 14029

human rights defenders were eventually able to leave the area after Kirity Roy contacted the Deputy Inspector General of Krishnanagar Sector.

On 2 February 2019, the BSF filed a First Information Report (FIR) to the Chapra Police Station against Kirity Roy and the three other MASUM human rights defenders. An inquiry into this complaint has been initiated.

On the evening of 3 February 2019, Kirity Roy sent a message to the officer-in-charge of the Chapra Police Station, Nadia District to lodge a complaint against the BSF officers. The complaint against the offending officers has so far not been registered.

On 27 January 2019, Kirity Roy was involved in separate incident with the BSF while he was speaking at a public meeting at the weekly Roypara market in Murshidabad District, near the Indo-Bangladesh border. The meeting, which had also been organized by Amra Simantabasi ("We the Bordering People"), was disrupted by the BSF. The officers entered the meeting, tore down posters that condemned human rights violations, and video recorded those at the meeting, including Kirity Roy. The human rights defender invited an officer to take the microphone and explain the BSF's conduct to the people. The BSF left the event when the organisers began to use their mobile phones to video record them.

On 2 February 2019, the BSF filed a false complaint against Kirity Roy and MASUM staff at the Jalangi Police Station in Murshidabad relating to the incident at the public meeting on 27 January. The complaint described Kirity Roy and the MASUM human rights defenders as "unscrupulous" and accused them of "instigating local habitants [sic.] against BSF and other law enforcement agencies" and of attempting to "capture and confine the BSF personnel."

These allegations and the threats of arrest and judicial persecution against Kirity Roy and MASUM are clear attempts to suppress their work in defense of human rights and pose a serious threat to the security of Kirity Roy and MASUM's staff. Front Line Defenders notes with concern that these incidents are just two of a series of threats, attacks, and false complaints against Kirity Roy and MASUM's staff.

Kirity Roy currently has several false cases pending against him, as do several District Monitors who are unable to return to their homes or continue their work on account of threats and abuse. On 1 February 2019, Front Line Defenders issued an Urgent Appeal, relating the violence perpetrated against woman human rights defender and MASUM volunteer Shila Bewa by BSF officers near the Indo-Bangladesh border.

Front Line Defenders believes that Kirity Roy and MASUM are being targeted as a result of their legitimate work in defence of human rights in particular their work to expose human rights violations of the BSF, the police, and other state agents. Front Line Defenders expresses its deepest concern for the physical and psychological integrity of Kirity Roy and other MASUM members.

Front Line Defenders urges the authorities of India to:

1. Carry out an immediate, thorough and impartial investigation into the threats made against human rights defenders Kirity Roy, Ramen Moitra, Subhrangshu Bhaduri, and Sujoy Singh Roy with a view to publishing the results and bringing those responsible to justice in accordance with

international standards;

2. Take all necessary measures to guarantee the physical and psychological integrity and security of Kirity Roy, Ramen Moitra, Subhrangshu Bhaduri, and Sujoy Singh Roy and all members of MASUM carrying out work in the border region of West Bengal;

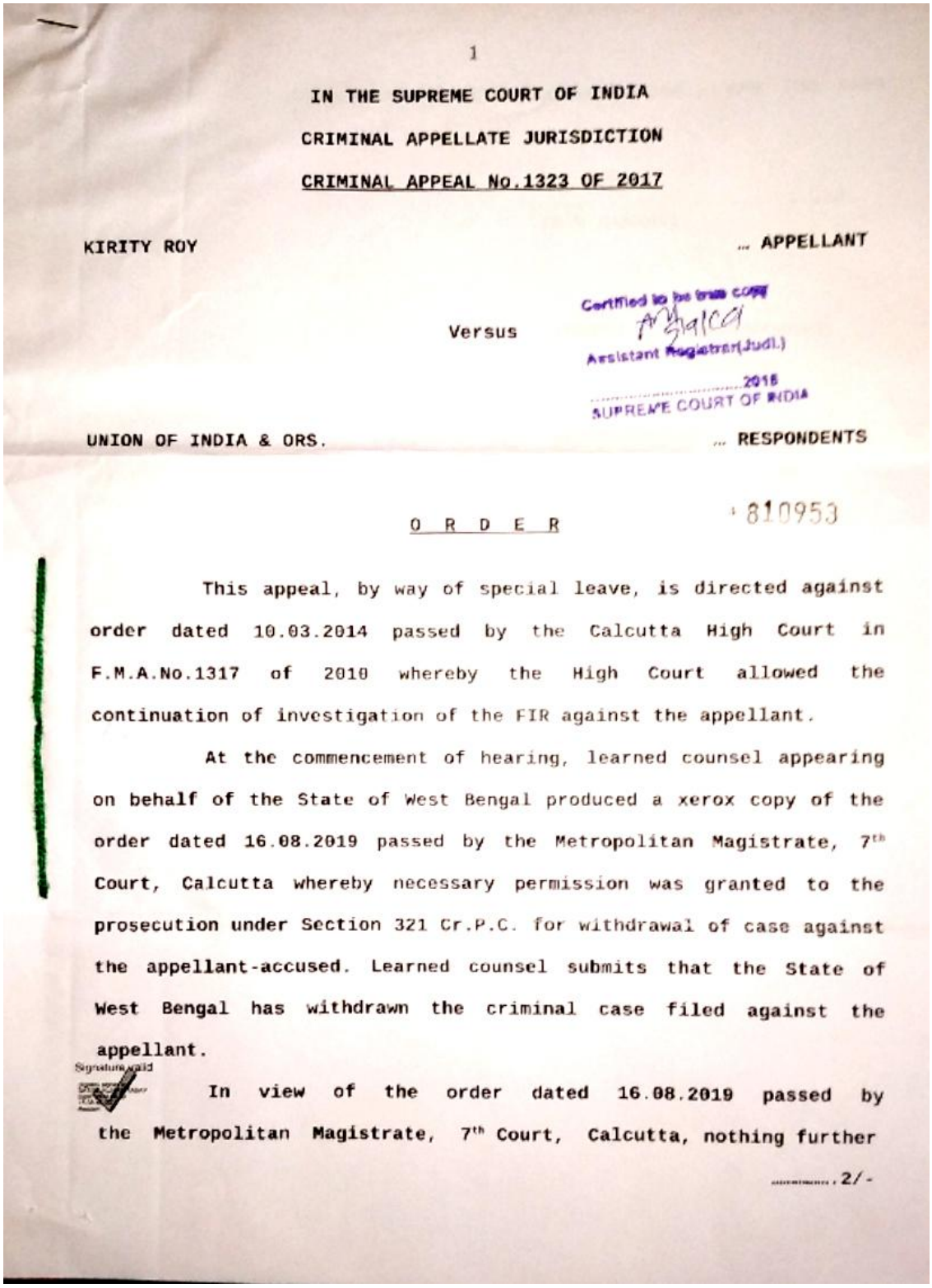
3. Take measures to ensure that public officials refrain from making unfounded statements or declarations stigmatising the character and work of human rights defenders;

4. Immediately cease any harassment against Kirity Roy and MASUM staff including attempts to smear their name and to criminalise the HRDs through false charges and complaints;

5. Guarantee in all circumstances that all human rights defenders in India are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

Annexure 5

Supreme Court's order copy on People's Tribunal on Torture (PTT) case



1

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1323 OF 2017

KIRITY ROY ... APPELLANT

Versus

Certified to be true copy
Assistant Registrar(Judl.)
2018
SUPREME COURT OF INDIA

UNION OF INDIA & ORS. ... RESPONDENTS

O R D E R

810953

This appeal, by way of special leave, is directed against order dated 10.03.2014 passed by the Calcutta High Court in F.M.A.No.1317 of 2010 whereby the High Court allowed the continuation of investigation of the FIR against the appellant.

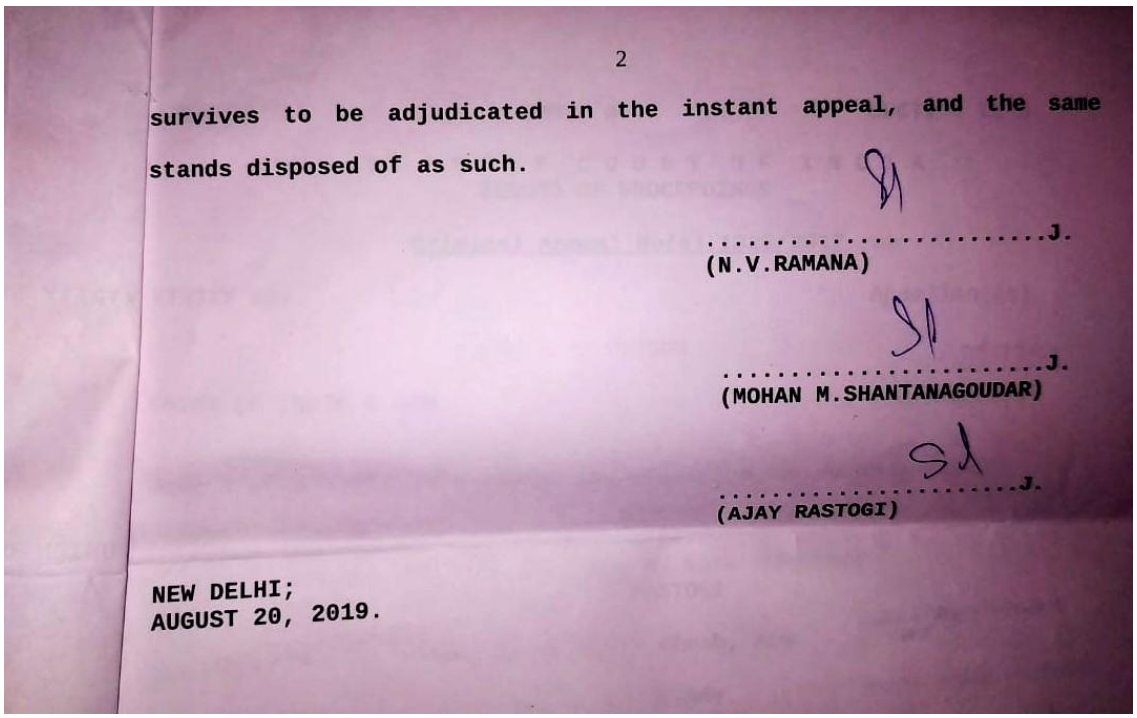
At the commencement of hearing, learned counsel appearing on behalf of the State of West Bengal produced a xerox copy of the order dated 16.08.2019 passed by the Metropolitan Magistrate, 7th Court, Calcutta whereby necessary permission was granted to the prosecution under Section 321 Cr.P.C. for withdrawal of case against the appellant-accused. Learned counsel submits that the State of West Bengal has withdrawn the criminal case filed against the appellant.

Signature not verified

In view of the order dated 16.08.2019 passed by the Metropolitan Magistrate, 7th Court, Calcutta, nothing further

.....2/-

Page 2:



2

survives to be adjudicated in the instant appeal, and the same stands disposed of as such.

.....J.
(N.V.RAMANA)

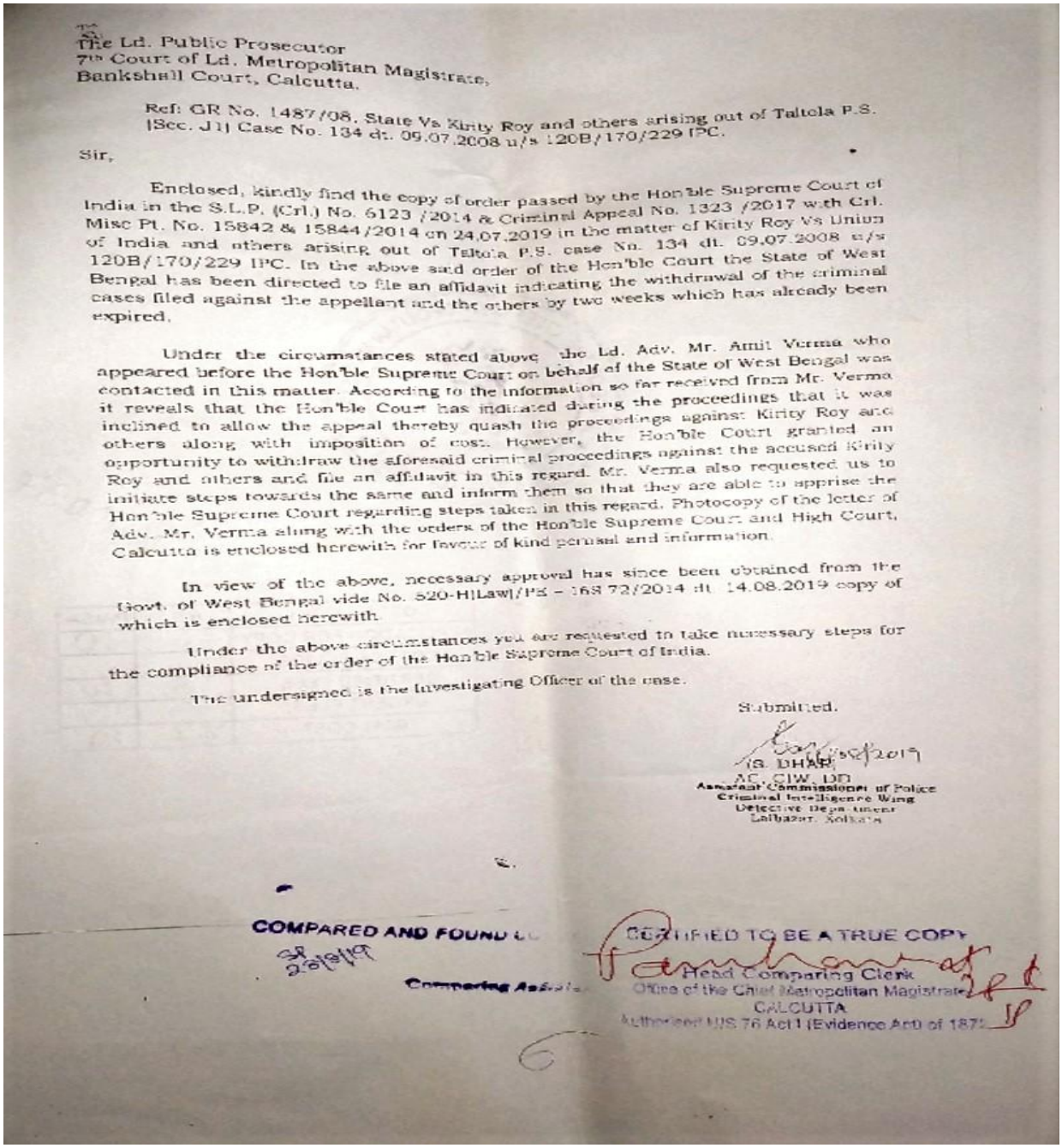
.....J.
(MOHAN M.SHANTANAGOUDAR)

.....J.
(AJAY RASTOGI)

NEW DELHI;
AUGUST 20, 2019.

Annexure 6

Letter of ACP, Criminal Investigation Wing, Lalbazar to the Public Prosecutor, 7th Metropolitan Magistrate to withdraw People's Tribunal on Torture (PTT) case



The Ld. Public Prosecutor
7th Court of Ld. Metropolitan Magistrate,
Bankshall Court, Calcutta.

Ref: GR No. 1487/08, State Vs Kirity Roy and others arising out of Taltola P.S. [Sec. J1] Case No. 134 dt. 09.07.2008 u/s 120B/170/229 IPC.

Sir,

Enclosed, kindly find the copy of order passed by the Hon'ble Supreme Court of India in the S.L.P. (Crl.) No. 6123 /2014 & Criminal Appeal No. 1323 /2017 with Crl. Misc Pt. No. 15842 & 15844/2014 on 24.07.2019 in the matter of Kirity Roy Vs Union of India and others arising out of Taltola P.S. case No. 134 dt. 09.07.2008 u/s 120B/170/229 IPC. In the above said order of the Hon'ble Court the State of West Bengal has been directed to file an affidavit indicating the withdrawal of the criminal cases filed against the appellant and the others by two weeks which has already been expired.

Under the circumstances stated above the Ld. Adv. Mr. Amit Verma who appeared before the Hon'ble Supreme Court on behalf of the State of West Bengal was contacted in this matter. According to the information so far received from Mr. Verma it reveals that the Hon'ble Court has indicated during the proceedings that it was inclined to allow the appeal thereby quash the proceedings against Kirity Roy and others along with imposition of cost. However, the Hon'ble Court granted an opportunity to withdraw the aforesaid criminal proceedings against the accused Kirity Roy and others and file an affidavit in this regard. Mr. Verma also requested us to initiate steps towards the same and inform them so that they are able to apprise the Hon'ble Supreme Court regarding steps taken in this regard. Photocopy of the letter of Adv. Mr. Verma along with the orders of the Hon'ble Supreme Court and High Court, Calcutta is enclosed herewith for favour of kind perusal and information.

In view of the above, necessary approval has since been obtained from the Govt. of West Bengal vide No. 520-H[Law]/PS – 168 72/2014 dt. 14.08.2019 copy of which is enclosed herewith.

Under the above circumstances you are requested to take necessary steps for the compliance of the order of the Hon'ble Supreme Court of India.

The undersigned is the Investigating Officer of the case.

Submitted.

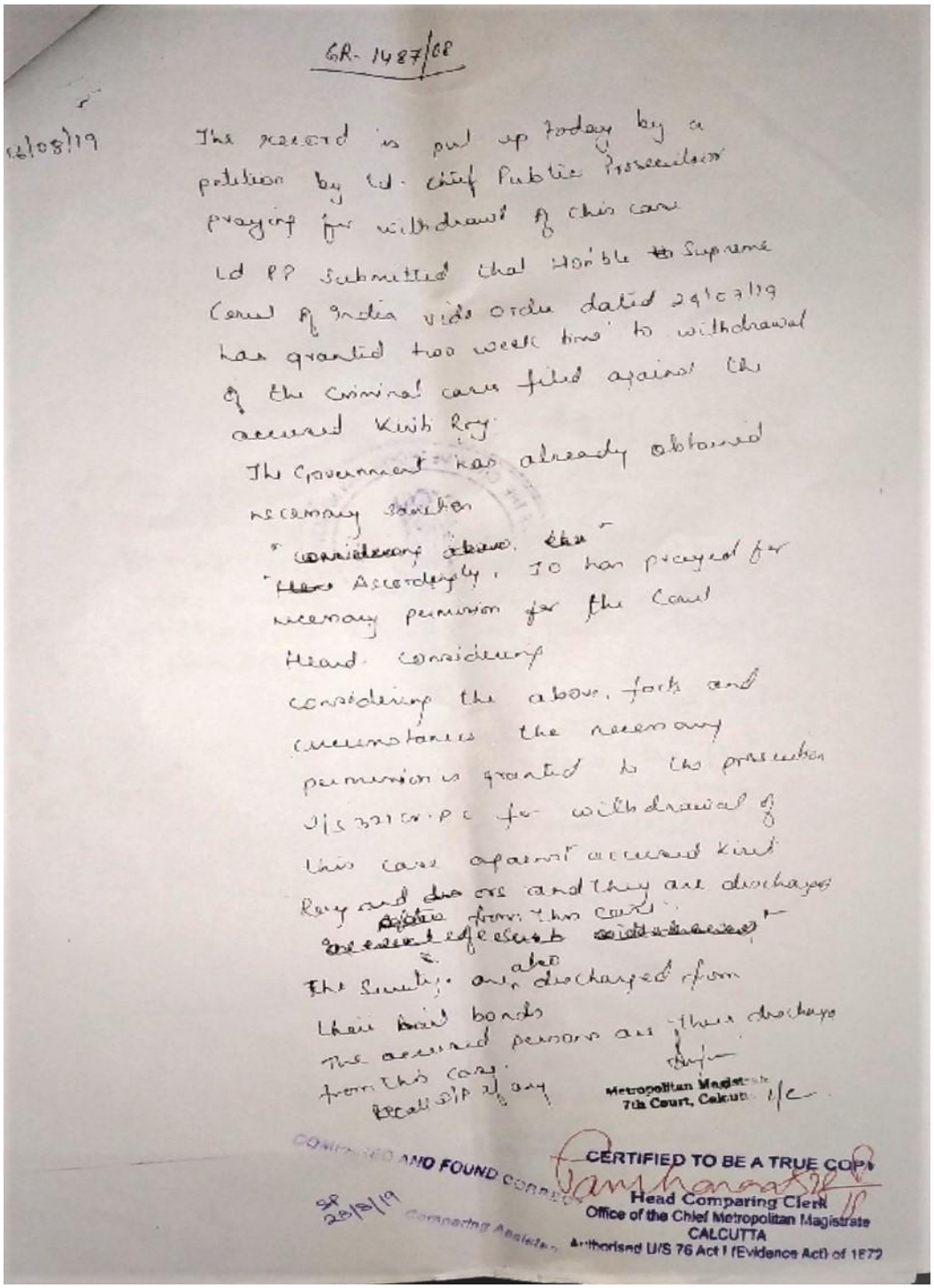
(S. DHAR)
AC, CIW, DD
Assistant Commissioner of Police
Criminal Intelligence Wing
Detective Department
Lalbazar, Kolkata

COMPARED AND FOUND CORRECT
Comparing Assistant

CERTIFIED TO BE A TRUE COPY
Head Comparing Clerk
Office of the Chief Metropolitan Magistrate
CALCUTTA
Authorised U/S 76 Act 1 (Evidence Act) of 1872

Annexure 7

Order copy from 7th Metropolitan Magistrate to withdraw People's Tribunal on Torture (PTT) case



GR- 1487/08

16/08/19

The record is put up today by a petition by Ld. Chief Public Prosecutor praying for withdrawal of this case

Ld PP submitted that Hon'ble Supreme Court of India vide order dated 24/07/19 has granted two week time to withdrawal of the criminal cases filed against the accused Kirti Roy.

The Government has already obtained necessary sanction

~~considering above the~~

~~Here~~ Accordingly, IO has prayed for necessary permission for the Court

Heard considering

considering the above facts and circumstances the necessary permission is granted to the prosecution U/S 321 Cr.P.C for withdrawal of this case against accused Kirti Roy and ~~dis~~ ors and they are discharged ~~Agitation~~ from this case.

~~[illegible]~~

The Sureties are also discharged from their bail bonds

The accused persons are thus discharged from this case.

Recall O/P if any

Metropolitan Magistrate
7th Court, Calcutta

COMPARED AND FOUND CORRECT

Comparing Assistant

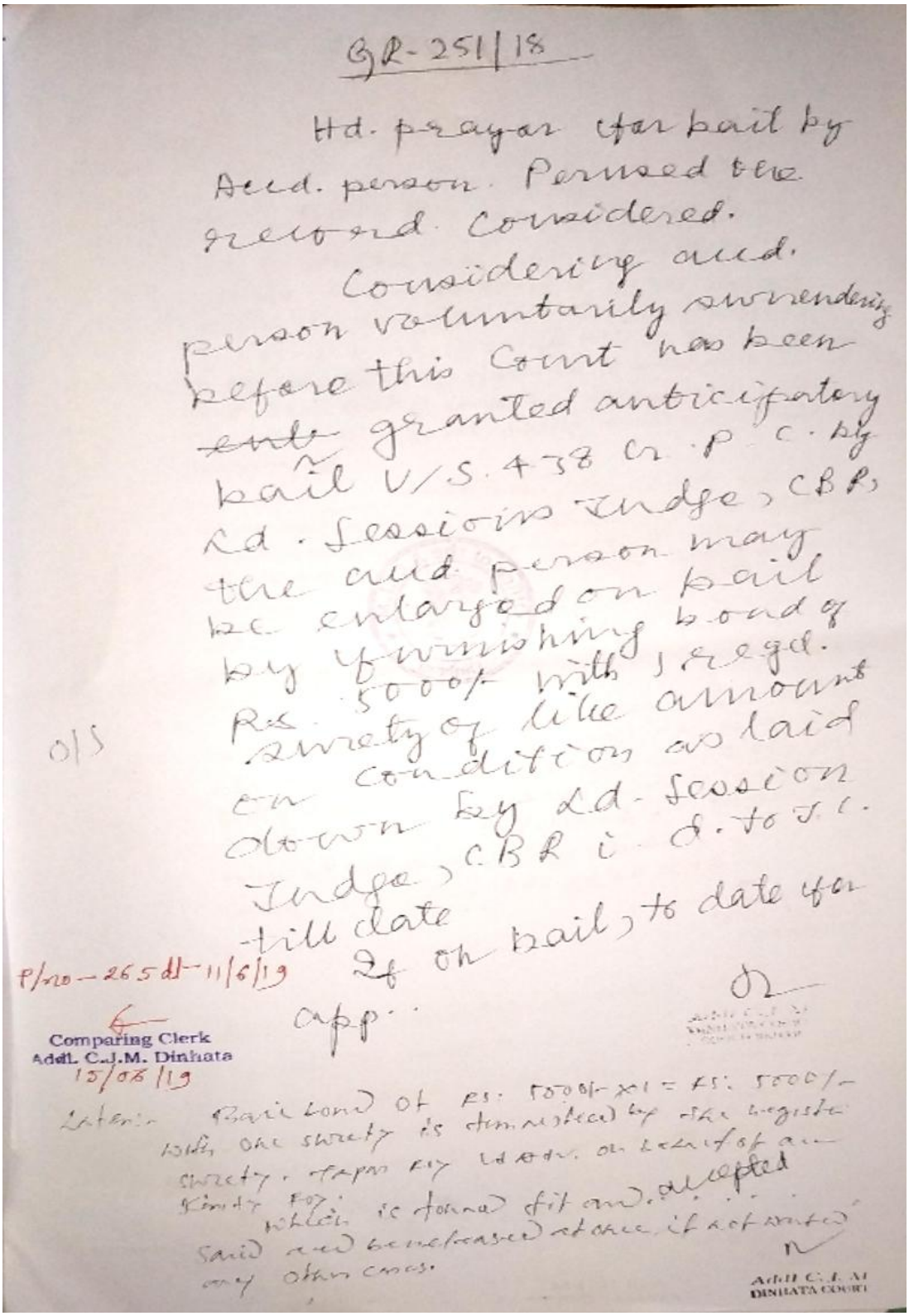
SP 28/8/19

CERTIFIED TO BE A TRUE COPY

Head Comparing Clerk
Office of the Chief Metropolitan Magistrate
CALCUTTA
Authorised U/S 76 Act I (Evidence Act) of 1872

Annexure 8

Anticipatory bail order for KirityRoy in Dinhata PS case



GR-251/18

Hd. prayer for bail by Accd. person. Perused the record. Considered.

Considering accd. person voluntarily surrendering before this Court has been ~~ent~~ granted anticipatory bail U/S. 438 Cr. P. C. by Ld. Sessions Judge, CBR, the accd. person may be enlarged on bail by furnishing bond of Rs. 5000/- with 1 regd. surety of like amount on condition as laid down by Ld. Session Judge, CBR i. d. to J. C. till date

O/S

If on bail, to date for app.

P/no - 265 dt - 11/6/19

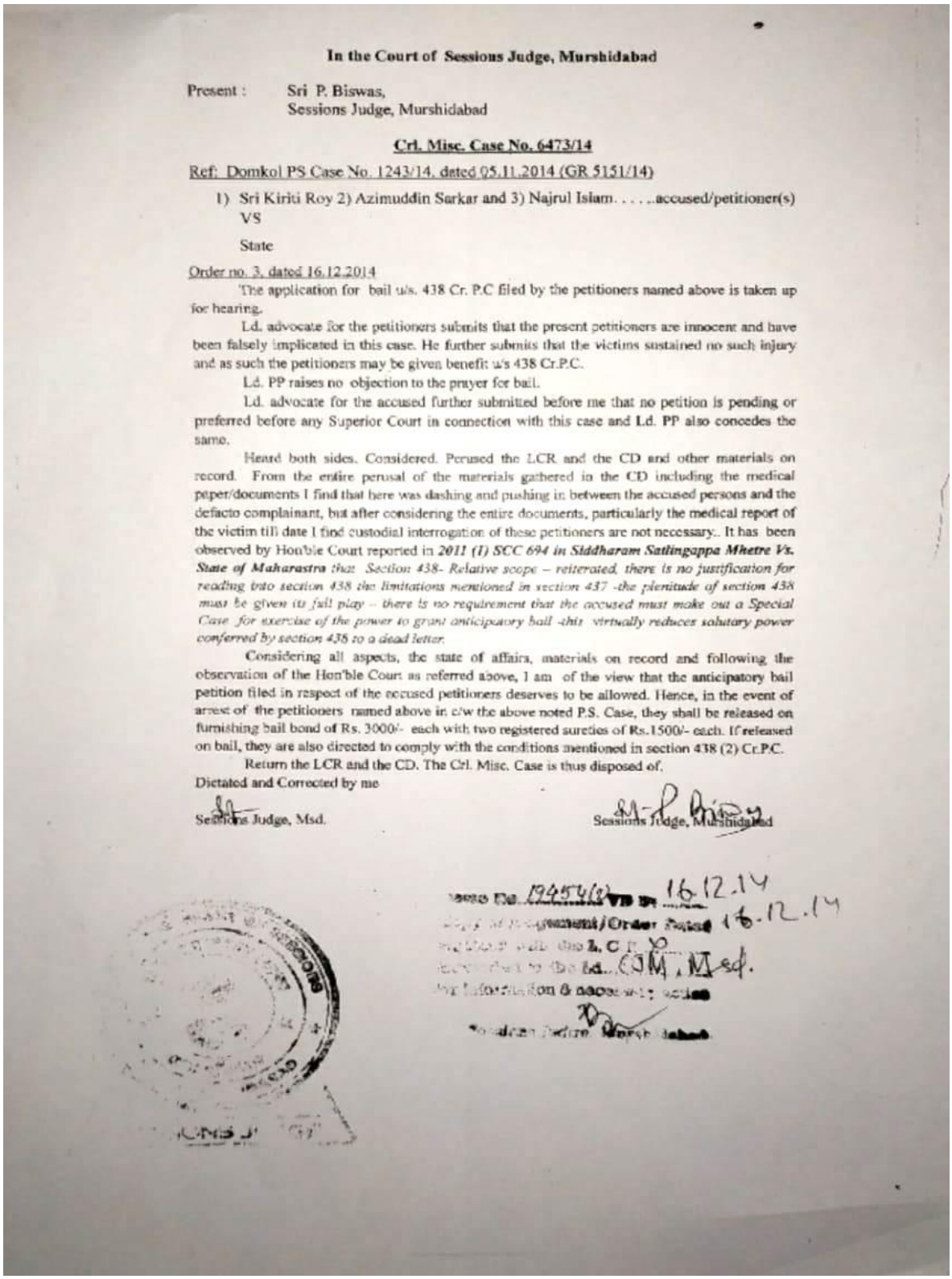
Comparing Clerk
Addl. C.J.M. Dinhata
15/06/19

Later:- Bail bond of Rs. 5000/- x 1 = Rs. 5000/- with one surety is furnished by the Registered surety. Tapas Roy Ld Adv. on behalf of accd. Kirity Roy. which is found fit and accepted said accd be released at once if not wanted any other cases.

Addl C.J.M.
DINHATA COURT

Annexure 9

Bail order for KirityRoy in Domkal PS case



In the Court of Sessions Judge, Murshidabad

Present : Sri P. Biswas,
Sessions Judge, Murshidabad

Crl. Misc. Case No. 6473/14

Ref: Domkol PS Case No. 1243/14, dated 05.11.2014 (GR 5151/14)

1) Sri Kiriti Roy 2) Azimuddin Sarkar and 3) Najrul Islam. . . . . accused/petitioner(s)
VS

State

Order no. 3, dated 16.12.2014

The application for bail u/s. 438 Cr. P.C filed by the petitioners named above is taken up for hearing.

Ld. advocate for the petitioners submits that the present petitioners are innocent and have been falsely implicated in this case. He further submits that the victims sustained no such injury and as such the petitioners may be given benefit u/s 438 Cr.P.C.

Ld. PP raises no objection to the prayer for bail.

Ld. advocate for the accused further submitted before me that no petition is pending or preferred before any Superior Court in connection with this case and Ld. PP also concedes the same.

Heard both sides. Considered. Perused the LCR and the CD and other materials on record. From the entire perusal of the materials gathered in the CD including the medical paper/documents I find that here was dashing and pushing in between the accused persons and the defacto complainant, but after considering the entire documents, particularly the medical report of the victim till date I find custodial interrogation of these petitioners are not necessary.. It has been observed by Hon'ble Court reported in ***2011 (1) SCC 694 in Siddharam Satlingappa Mhetre Vs. State of Maharastra*** *that Section 438- Relative scope – reiterated, there is no justification for reading into section 438 the limitations mentioned in section 437 -the plenitude of section 438 must be given its full play – there is no requirement that the accused must make out a Special Case for exercise of the power to grant anticipatory bail -this virtually reduces salutary power conferred by section 438 to a dead letter.*

Considering all aspects, the state of affairs, materials on record and following the observation of the Hon'ble Court as referred above, I am of the view that the anticipatory bail petition filed in respect of the accused petitioners deserves to be allowed. Hence, in the event of arrest of the petitioners named above in c/w the above noted P.S. Case, they shall be released on furnishing bail bond of Rs. 3000/- each with two registered sureties of Rs.1500/- each. If released on bail, they are also directed to comply with the conditions mentioned in section 438 (2) Cr.P.C.

Return the LCR and the CD. The Crl. Misc. Case is thus disposed of.

Dictated and Corrected by me

Sessions Judge, Msd.

Sessions Judge, Murshidabad

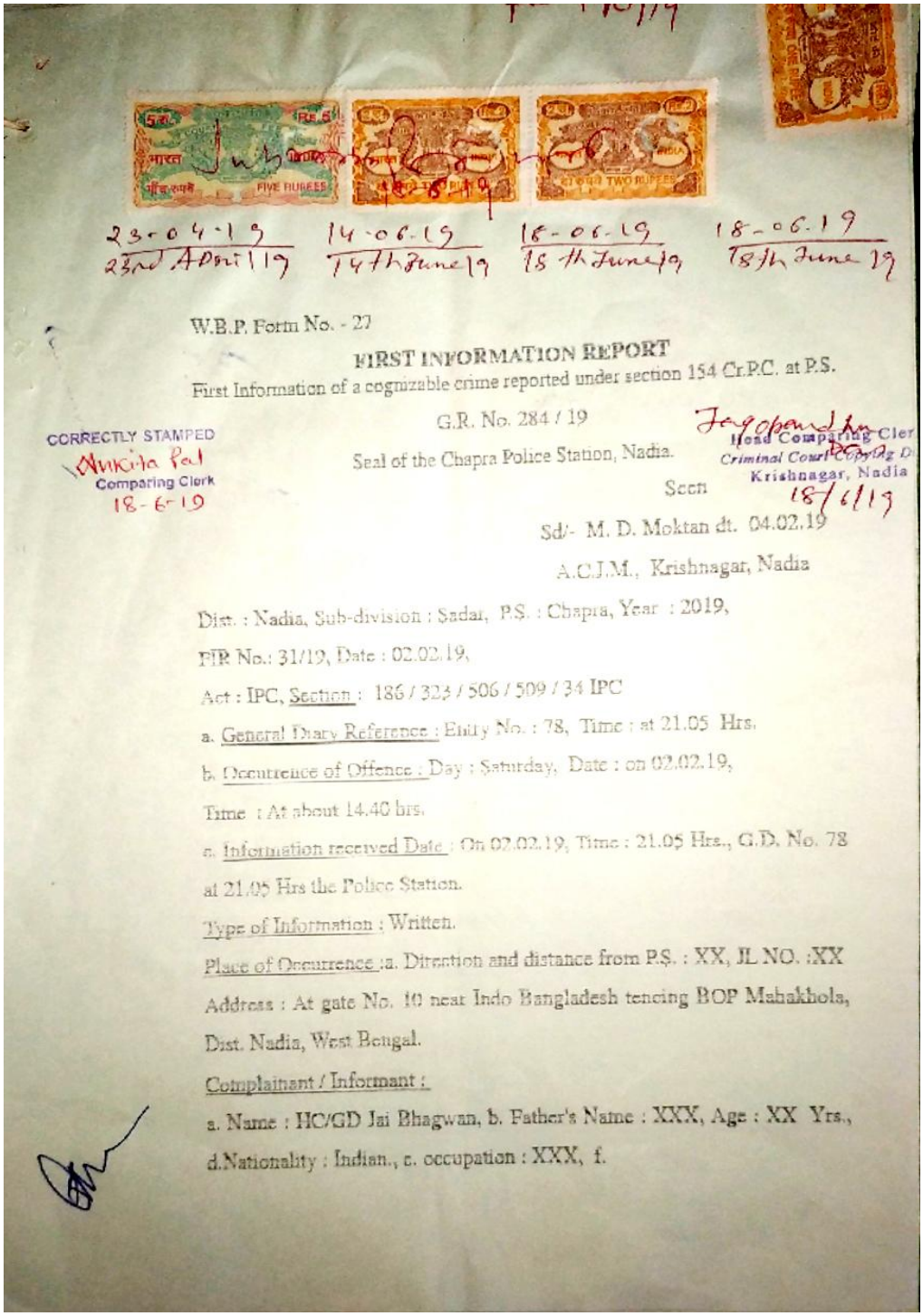
16.12.14

16.12.14

Ld. CJM, Msd.

Annexure 10

FIR copy againstKirityRoy in Chapra PS case



23-04-19 23rd April 19 | 14-06-19 14th June 19 | 18-06-19 18th June 19 | 18-06-19 18th June 19

W.B.P. Form No. - 27

FIRST INFORMATION REPORT

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

G.R. No. 284 / 19

Seal of the Chapra Police Station, Nadia.

CORRECTLY STAMPED
Anwita Pal
Comparing Clerk
18-6-19

Head Comparing Clerk
Criminal Court Copying Department
Krishnagar, Nadia

Seen
18/6/19

Sd/- M. D. Moktan dt. 04.02.19

A.C.J.M., Krishnagar, Nadia

Dist. : Nadia, Sub-division : Sadar, P.S. : Chapra, Year : 2019,

FIR No.: 31/19, Date : 02.02.19,

Act : IPC, Section : 186 / 323 / 506 / 509 / 34 IPC

a. General Diary Reference : Entry No. : 78, Time : at 21.05 Hrs.

b. Occurrence of Offence : Day : Saturday, Date : on 02.02.19,

Time : At about 14.40 hrs.

c. Information received Date : On 02.02.19, Time : 21.05 Hrs., G.D. No. 78 at 21.05 Hrs the Police Station.

Type of Information : Written.

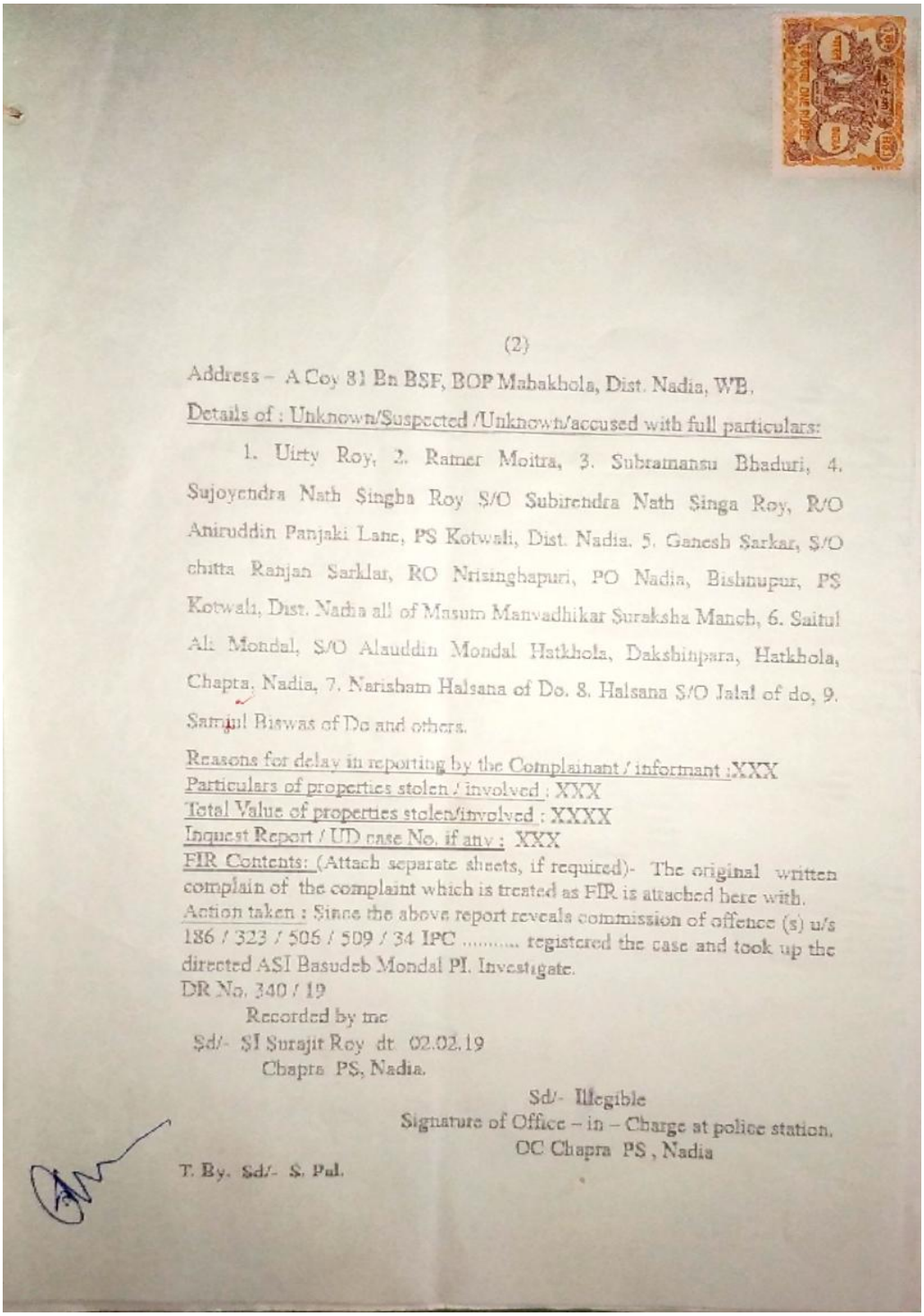
Place of Occurrence :a. Direction and distance from P.S. : XX, JL NO. :XX

Address : At gate No. 10 near Indo Bangladesh fencing BOP Mahakhola, Dist. Nadia, West Bengal.

Complainant / Informant :

a. Name : HC/GD Jai Bhagwan, b. Father's Name : XXX, Age : XX Yrs., d.Nationality : Indian., e. occupation : XXX, f.

Page 2:



(2)

Address – A Coy 81 Bn BSF, BOP Mahakhola, Dist. Nadia, WB.

Details of : Unknown/Suspected /Unknown/accused with full particulars:

1. Uirty Roy, 2. Ramer Moitra, 3. Subramansu Bhaduri, 4. Sujoyendra Nath Singha Roy S/O Subirendra Nath Singa Roy, R/O Aniruddin Panjaki Lane, PS Kotwali, Dist. Nadia. 5. Ganesh Sarkar, S/O chitta Ranjan Sarklar, RO Nrisinghapuri, PO Nadia, Bishnupur, PS Kotwali, Dist. Nadia all of Masum Manvadhikar Suraksha Manch, 6. Saitul Ali Mondal, S/O Alauddin Mondal Hatkhola, Dakshinpara, Hatkhola, Chapra, Nadia, 7. Narisham Halsana of Do. 8. Halsana S/O Jalal of do, 9. Samjul Biswas of Do and others.

Reasons for delay in reporting by the Complainant / informant :XXX
Particulars of properties stolen / involved : XXX
Total Value of properties stolen/involved : XXXX
Inquest Report / UD case No. if any : XXX
FIR Contents: (Attach separate sheets, if required)- The original written complain of the complaint which is treated as FIR is attached here with.
Action taken : Since the above report reveals commission of offence (s) u/s 186 / 323 / 506 / 509 / 34 IPC ..... registered the case and took up the directed ASI Basudeb Mondal PI. Investigate.
DR No. 340 / 19

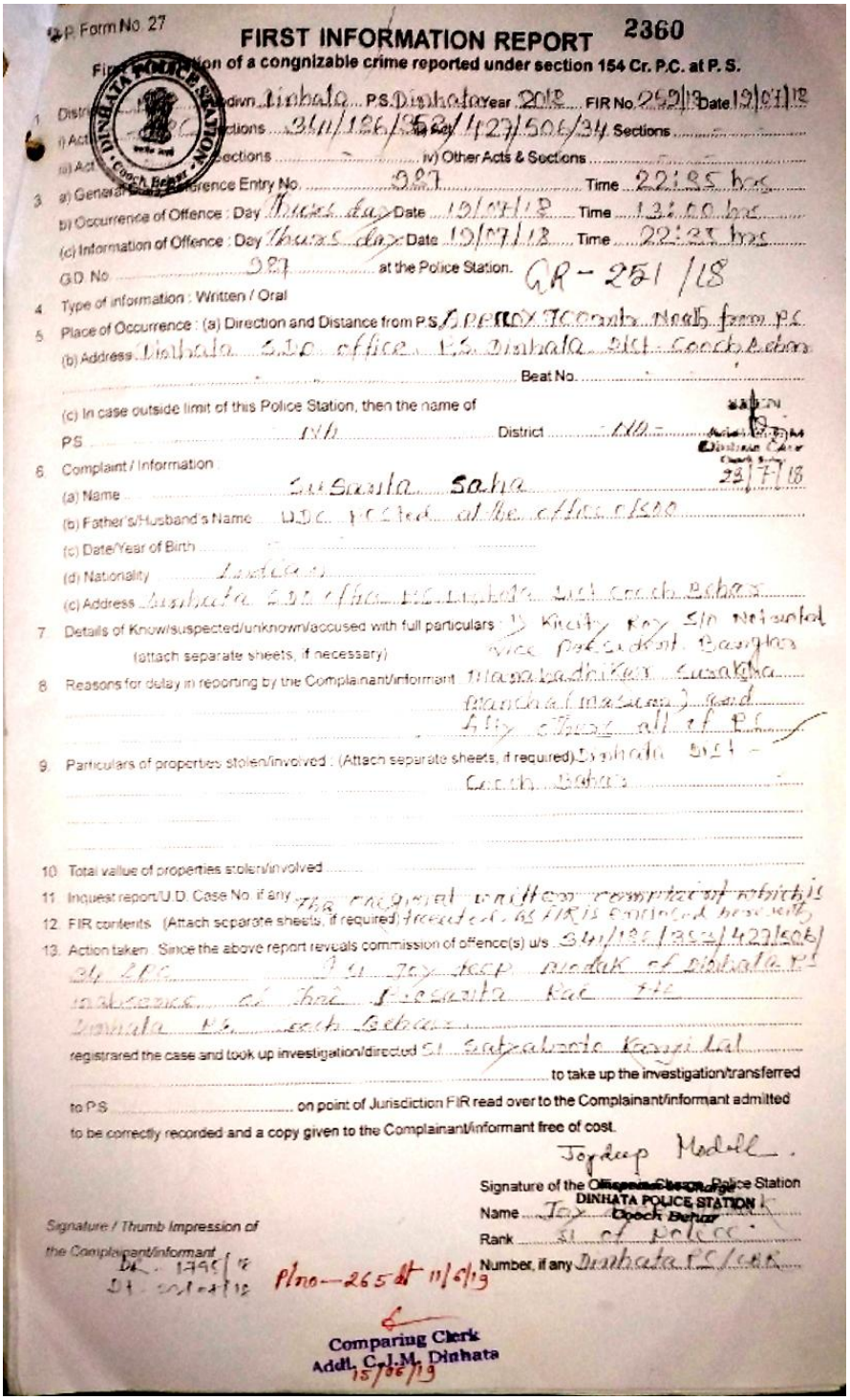
Recorded by me
Sd/- SI Surajit Roy dt. 02.02.19
Chapra PS, Nadia.

Sd/- Illegible
Signature of Office – in – Charge at police station,
OC Chapra PS , Nadia

T. By. Sd/- S. Pal.

Annexure 11

FIR copy against KirityRoy in Dinhata PS case



P. Form No. 27

FIRST INFORMATION REPORT 2360

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

1. District Cooch Behar P.S. Dinhata Year 2018 FIR No. 252/18 Date 19/07/18
2. i) Act IPC Sections 341/186/353/427/506/34 Sections
   ii) Act Sections iv) Other Acts & Sections
3. a) General Diary Reference Entry No. 987 Time 22:05 hrs
   b) Occurrence of Offence : Day Thurs day Date 19/07/18 Time 13:00 hrs
   (c) Information of Offence : Day Thurs day Date 19/07/18 Time 22:35 hrs
   G.D. No 987 at the Police Station. GR - 251/18
4. Type of information : Written / Oral
5. Place of Occurrence : (a) Direction and Distance from P.S. Approx 1Kmts North from PS
   (b) Address Dinhata S.D.O. office, P.S. Dinhata Dist. Cooch Behar
   Beat No.
   (c) In case outside limit of this Police Station, then the name of P.S. NA District NA
6. Complaint / Information
   (a) Name Sri Susanta Saha 23/7/18
   (b) Father's/Husband's Name W.B.C.S. posted at the office of S.D.O.
   (c) Date/Year of Birth
   (d) Nationality Indian
   (e) Address Dinhata S.D.O. office P.S. Dinhata Dist. Cooch Behar
7. Details of Know/suspected/unknown/accused with full particulars (attach separate sheets, if necessary) 1) Kirity Roy S/o Not stated Vice President Bamjhar Mamata Adhikari Susanta Mandal (Mazumdar) Sonali Ally others all of P.S. Dinhata Dist - Cooch Behar
8. Reasons for delay in reporting by the Complainant/informant
9. Particulars of properties stolen/involved : (Attach separate sheets, if required)
10. Total vallue of properties stolen/involved
11. Inquest report/U.D. Case No. if any
12. FIR contents (Attach separate sheets, if required) Treated as FIR is forwarded herewith
13. Action taken : Since the above report reveals commission of offence(s) u/s 341/186/353/427/506/34 IPC Sri Joydeep Modak of Dinhata P.S. in absence of that I Susanta Pal etc Dinhata P.S. Cooch Behar registrared the case and took up investigation/directed SI Satyabrata Kanjilal 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.

Joydeep Modak.

Signature of the Officer-in-Charge, Police Station
DINHATA POLICE STATION
Cooch Behar
Name Joydeep Modak
Rank SI of Police
Number, if any Dinhata PS/018

Signature / Thumb Impression of the Complainant/informant

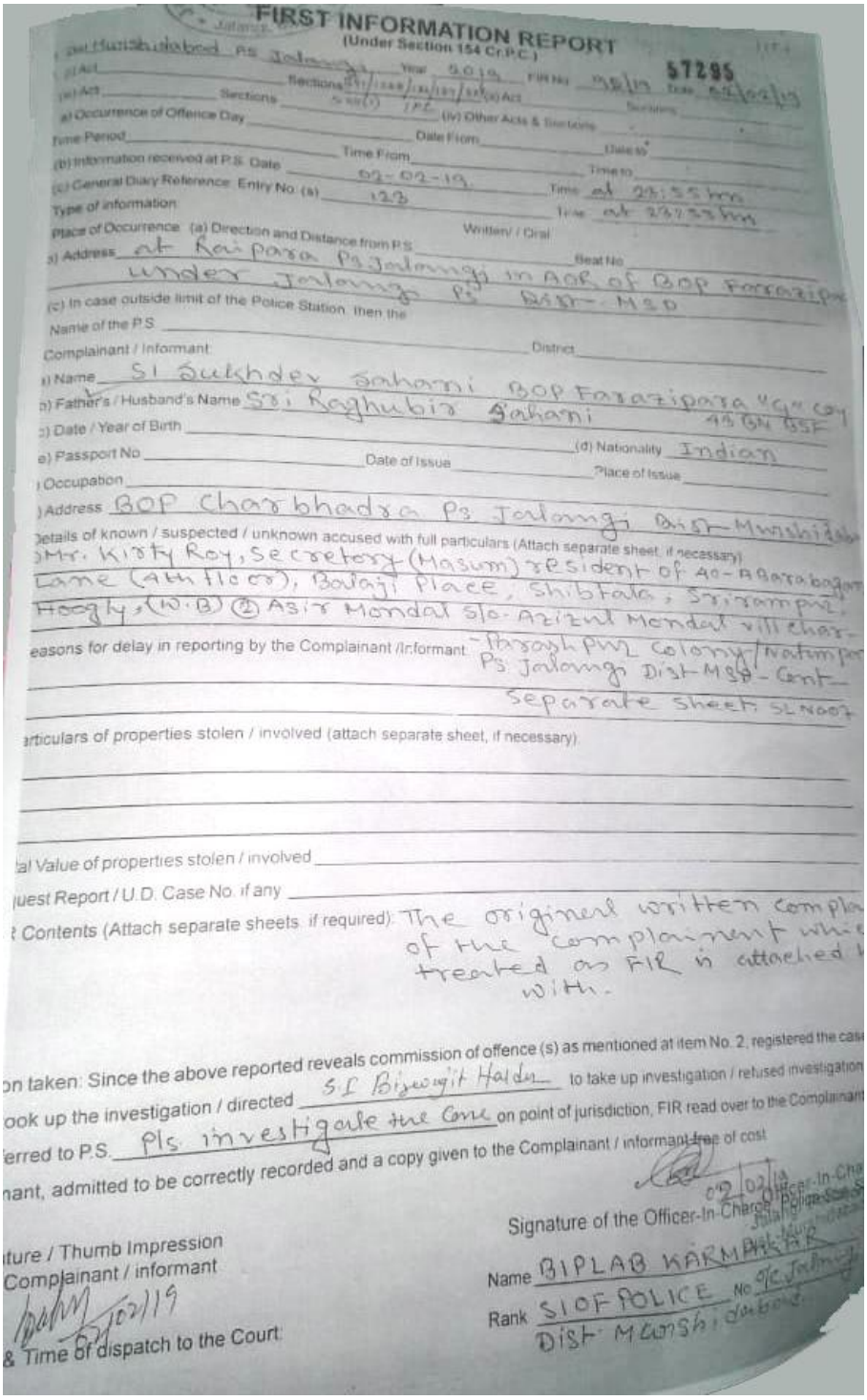
Dt. 1795/18 Dt. 23/07/18

Plno-265 dt 11/6/19

Comparing Clerk
Addl. C.J.M. Dinhata
15/06/19

Annexure 12

FIR copy against KirityRoy in Jalangi PS case



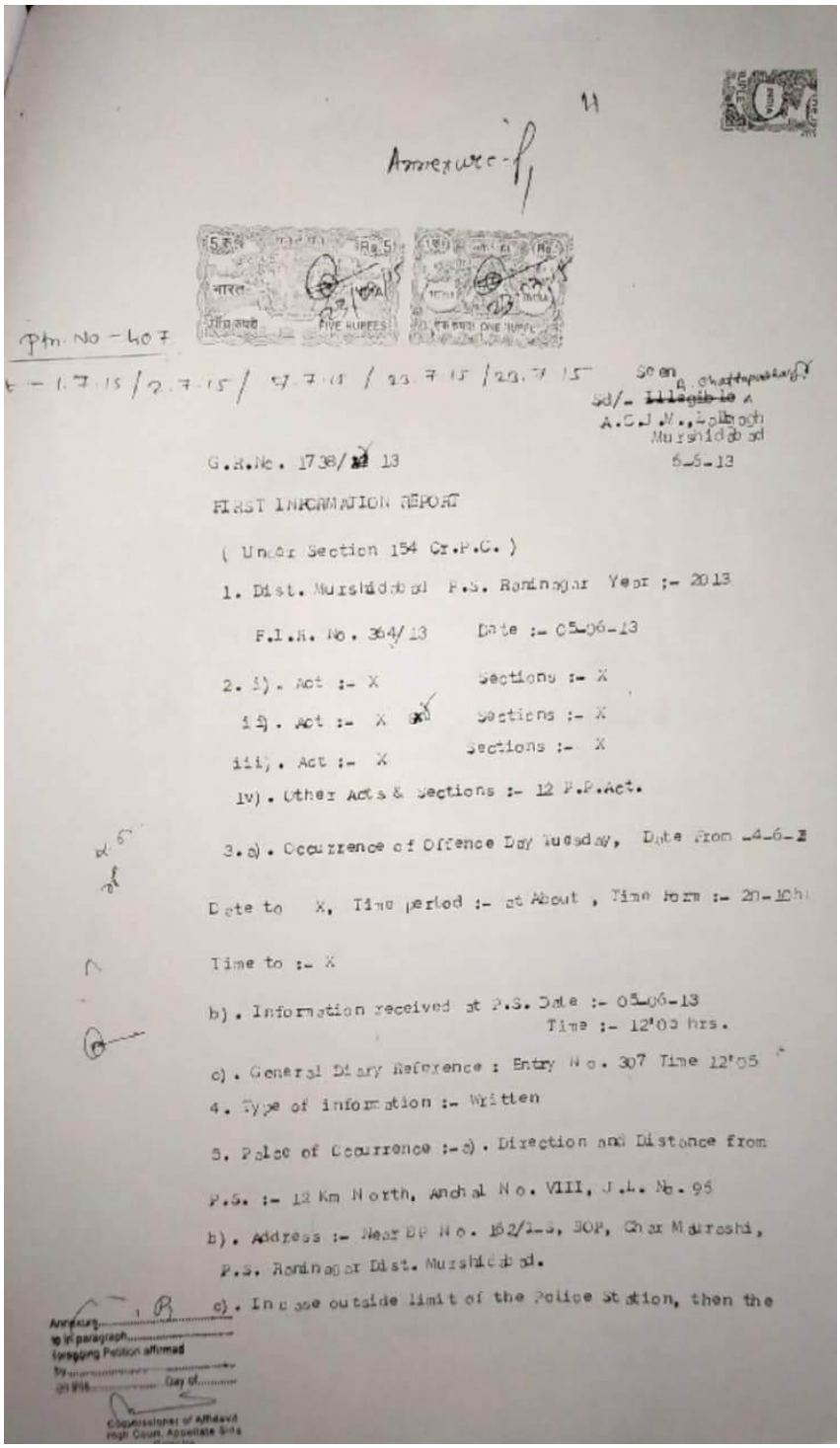
FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C.)

57295

(a) Murshidabad PS Jalangi Year 2019 FIR No 98/19 Date 02/02/19
(b) Act Sections 341/1448/147/148 (c) Act Sections
(d) Act Sections 5 Sec(1) IPC (iv) Other Acts & Sections
(a) Occurrence of Offence Day
Time Period Date From Date to
(b) Information received at P.S. Date Time From Time to
(c) General Diary Reference Entry No. (s) 02-02-19 Time at 23:55 hrs
Type of information 123 Time at 23:55 hrs
Place of Occurrence (a) Direction and Distance from P.S. Written/ / Oral
(b) Address at Raipara PS Jalangi in AOR of BOP Farazipara under Jalangi PS Dist- MSD Beat No
(c) In case outside limit of the Police Station then the
Name of the P.S. District
Complainant / Informant
(a) Name SI Sukhdev Sahani BOP Farazipara "G" Coy 43 BN BSF
(b) Father's / Husband's Name Sri Raghubir Sahani
(c) Date / Year of Birth (d) Nationality Indian
(e) Passport No Date of Issue Place of Issue
(f) Occupation
(g) Address BOP Charbhadra PS Jalangi Dist-Murshidabad
Details of known / suspected / unknown accused with full particulars (Attach separate sheet, if necessary)
(1) Mr. Kirty Roy, Secretory (Masum) resident of 40-A Barabagan Lane (4th floor), Balaji Place, Shibtala, Srirampur, Hoogly, (W.B) (2) Asir Mondal S/o- Azizul Mondal vill char-Parashpur Colony/Natampur PS Jalangi Dist-MSD-Cont-
Reasons for delay in reporting by the Complainant /Informant: Separate sheet SL No 07
Particulars of properties stolen / involved (attach separate sheet, if necessary)
Total Value of properties stolen / involved
Request Report / U.D. Case No. if any
Contents (Attach separate sheets if required): The original written complaint of the complainant which treated as FIR is attached with.
Action taken: Since the above reported reveals commission of offence (s) as mentioned at item No. 2, registered the case
Took up the investigation / directed S.I Biswajit Halder to take up investigation / refused investigation
Referred to P.S. Pls investigate the case on point of jurisdiction, FIR read over to the Complainant
Complainant, admitted to be correctly recorded and a copy given to the Complainant / informant free of cost
02/02/19
Signature of the Officer-In-Charge Police Station
Name BIPLAB KARMAKAR
Rank SI OF POLICE No O/C Jalangi Dist- Murshidabad
Signature / Thumb Impression
Complainant / informant
02/02/19
& Time of dispatch to the Court:

Annexure 13

FIR copy against KirityRoy in Raninagar PS case



Annexure-I

Ptn. No - 407

t - 1.7.15 / 2.7.15 / 7.7.15 / 23.7.15 / 23.7.15

Seen
Sd/- ~~Illegible~~ A. Chattopadhyay
A.C.J.M., Lalbagh
Murshidabad
6-6-13

G.R.No. 1738/13

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

1. Dist. Murshidabad P.S. Raninagar Year :- 2013

F.I.R. No. 364/13 Date :- 05-06-13

2. i). Act :- X Sections :- X

ii). Act :- X Sections :- X

iii). Act :- X Sections :- X

iv). Other Acts & Sections :- 12 P.P.Act.

3. a). Occurrence of Offence Day Tuesday, Date From -4-6-13

Date to X, Time period :- at About , Time Form :- 20-10hrs

Time to :- X

b). Information received at P.S. Date :- 05-06-13
Time :- 12'00 hrs.

c). General Diary Reference : Entry No. 307 Time 12'05

4. Type of information :- Written

5. Palce of Occurrence :- a). Direction and Distance from

P.S. :- 12 Km North, Anchal No. VIII, J.L. No. 95

b). Address :- Near BP No. 162/1-3, BOP, Char Maurashi,

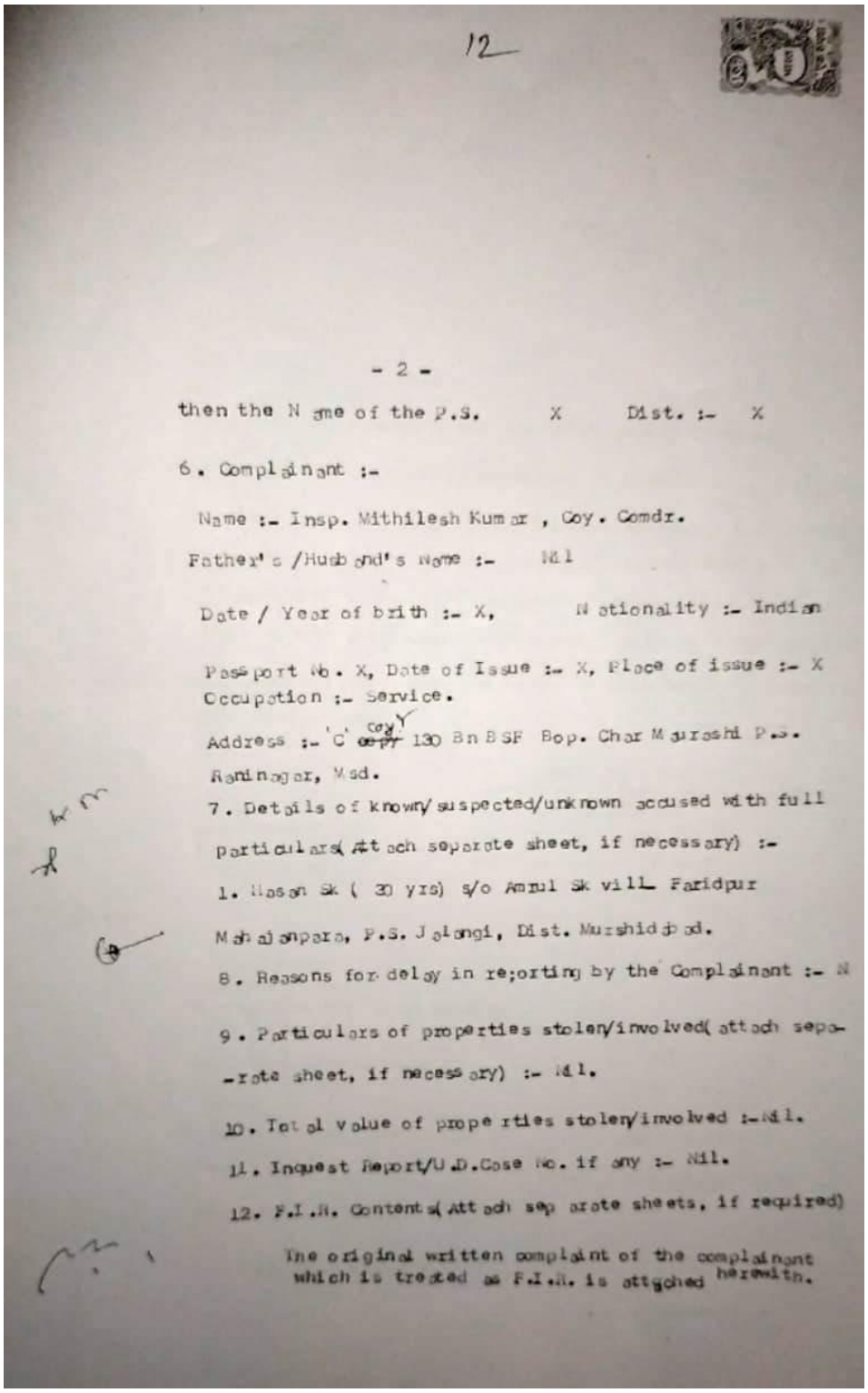
P.S. Raninagar Dist. Murshidabad.

c). In case outside limit of the Police Station, then the

Annexure ..... B
to in paragraph .....
foregoing Petition affirmed
By .....
on this ..... Day of .....

Commissioner of Affidavit
High Court, Appellate Side

Page 2:



12

- 2 -

then the Name of the P.S. X Dist. :- X

6. Complainant :-

Name :- Insp. Mithilesh Kumar , Coy. Comdr.

Father's /Husband's Name :- Nil

Date / Year of brith :- X, Nationality :- Indian

Passport No. X, Date of Issue :- X, Place of issue :- X
Occupation :- Service.

Address :- 'C' ~~Coy~~ Coy 130 Bn BSF Bop. Char Mayrashi P.S. Raninagar, Msd.

7. Details of known/suspected/unknown accused with full particulars(Attach separate sheet, if necessary) :-

1. Hasan Sk (30 yrs) s/o Amrul Sk vill- Faridpur Mahalanpara, P.S. Jalangi, Dist. Murshidabad.

8. Reasons for delay in re;orting by the Complainant :- N

9. Particulars of properties stolen/involved(attach sepa-rate sheet, if necessary) :- Nil.

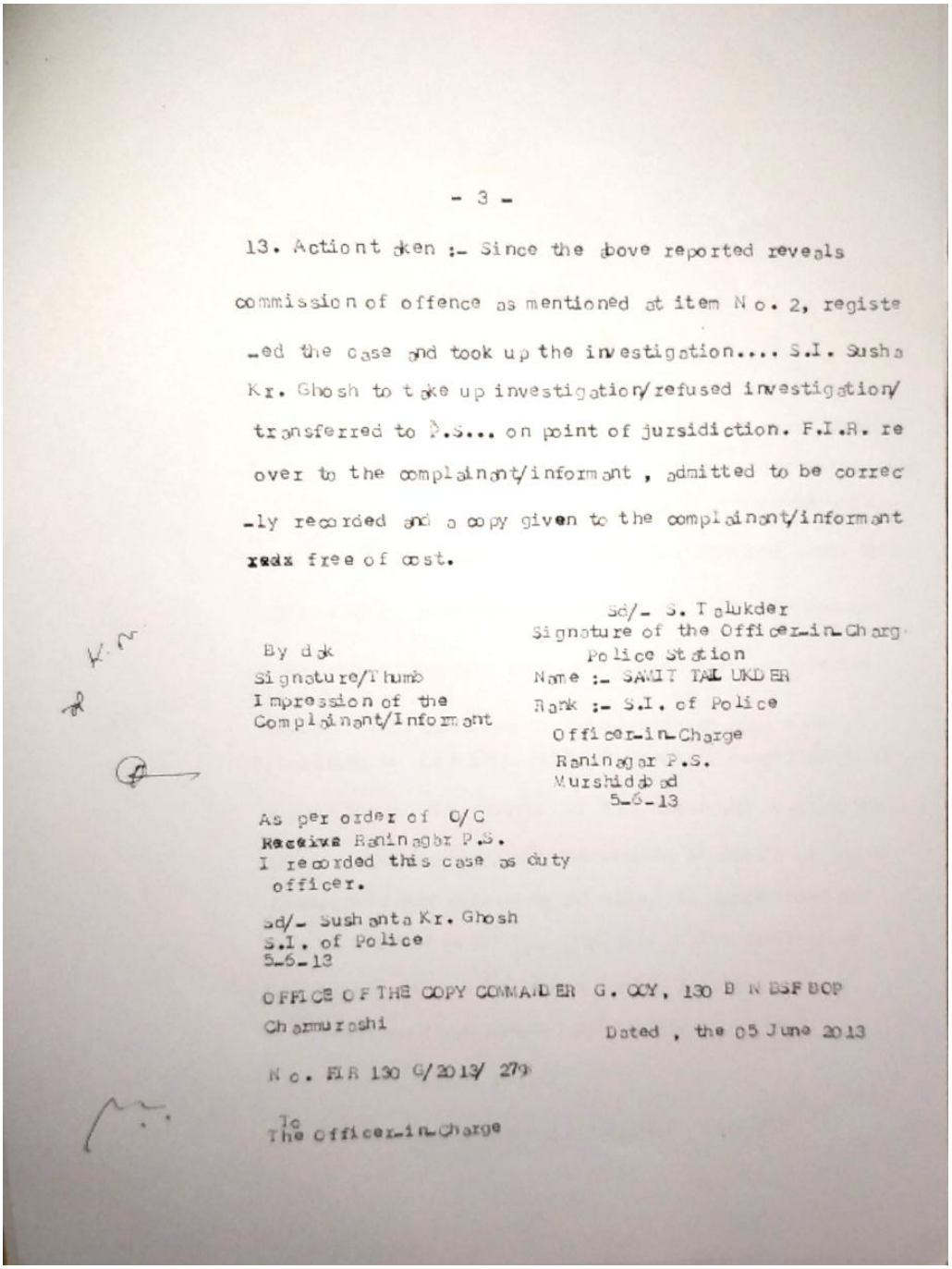
10. Total value of properties stolen/involved :-Nil.

11. Inquest Report/U.D.Case No. if any :- Nil.

12. F.I.R. Contents(Attach separate sheets, if required)

The original written complaint of the complainant which is treated as F.I.R. is attached herewith.

Page 3:



- 3 -

13. Actiont aken :- Since the above reported reveals commission of offence as mentioned at item No. 2, registe -ed the case and took up the investigation.... S.I. Susha Kr. Ghosh to take up investigation/refused investigation/ transferred to P.S... on point of jursidiction. F.I.R. re over to the complainant/informant , admitted to be correc -ly recorded and a copy given to the complainant/informant ~~redx~~ free of cost.

Sd/- S. Talukder
Signature of the Officer-in-Charg
Police Station
Name :- SAMIT TAL UKDER
Rank :- S.I. of Police
Officer-in-Charge
Raninagar P.S.
Murshidabad
5-6-13

By dak
Signature/Thumb
Impression of the
Complainant/Informant

As per order of O/C
~~Receive~~ Raninagar P.S.
I recorded this case as duty officer.

sd/- Sushanta Kr. Ghosh
S.I. of Police
5-6-13

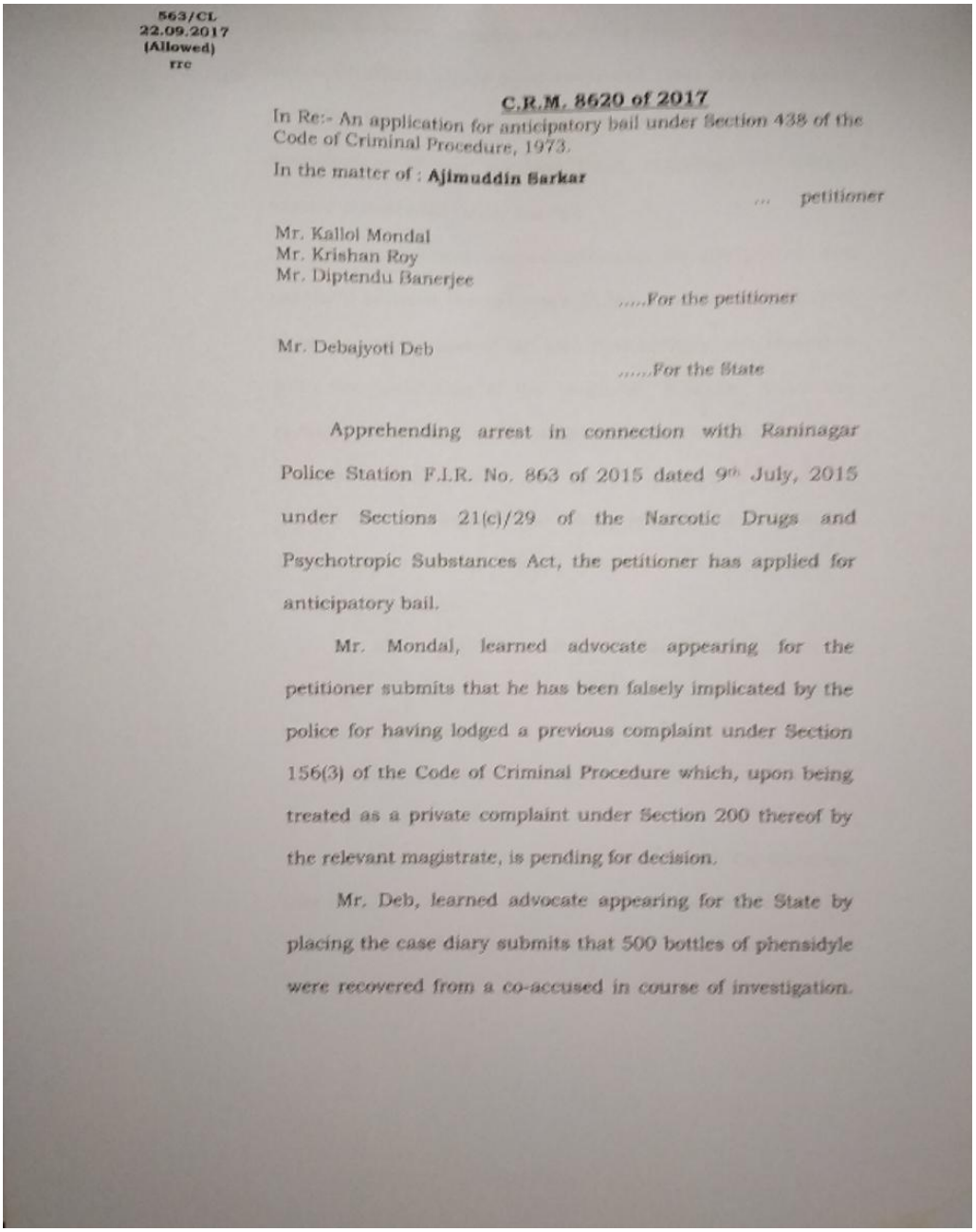
OFFICE OF THE COPY COMMANDER G. COY, 130 B N BSF BOP
Chamuroshi
Dated , the 05 June 2013

No. FIR 130 G/2013/ 279

To
The Officer-in-Charge

Annexure 14

Calcutta High Court's order in Ajimuddin Sarkar's case



563/CL
22.09.2017
(Allowed)
rrc

C.R.M. 8620 of 2017

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973.

In the matter of : **Ajimuddin Sarkar**

... petitioner

Mr. Kallol Mondal
Mr. Krishan Roy
Mr. Diptendu Banerjee

.....For the petitioner

Mr. Debajyoti Deb

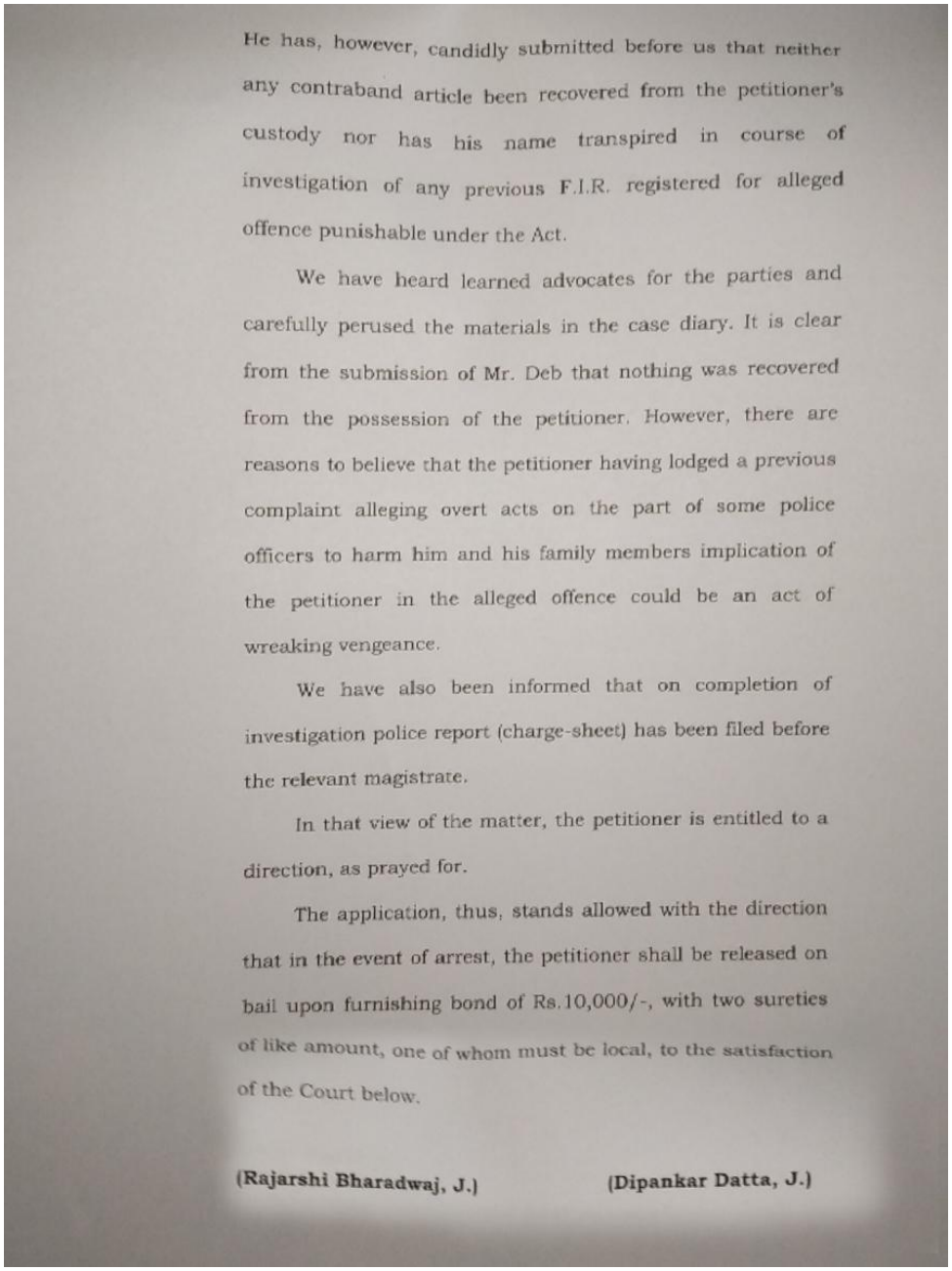
.....For the State

Apprehending arrest in connection with Raninagar Police Station F.I.R. No. 863 of 2015 dated 9th July, 2015 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, the petitioner has applied for anticipatory bail.

Mr. Mondal, learned advocate appearing for the petitioner submits that he has been falsely implicated by the police for having lodged a previous complaint under Section 156(3) of the Code of Criminal Procedure which, upon being treated as a private complaint under Section 200 thereof by the relevant magistrate, is pending for decision.

Mr. Deb, learned advocate appearing for the State by placing the case diary submits that 500 bottles of phensidyle were recovered from a co-accused in course of investigation.

Page 2:



He has, however, candidly submitted before us that neither any contraband article been recovered from the petitioner's custody nor has his name transpired in course of investigation of any previous F.I.R. registered for alleged offence punishable under the Act.

We have heard learned advocates for the parties and carefully perused the materials in the case diary. It is clear from the submission of Mr. Deb that nothing was recovered from the possession of the petitioner. However, there are reasons to believe that the petitioner having lodged a previous complaint alleging overt acts on the part of some police officers to harm him and his family members implication of the petitioner in the alleged offence could be an act of wreaking vengeance.

We have also been informed that on completion of investigation police report (charge-sheet) has been filed before the relevant magistrate.

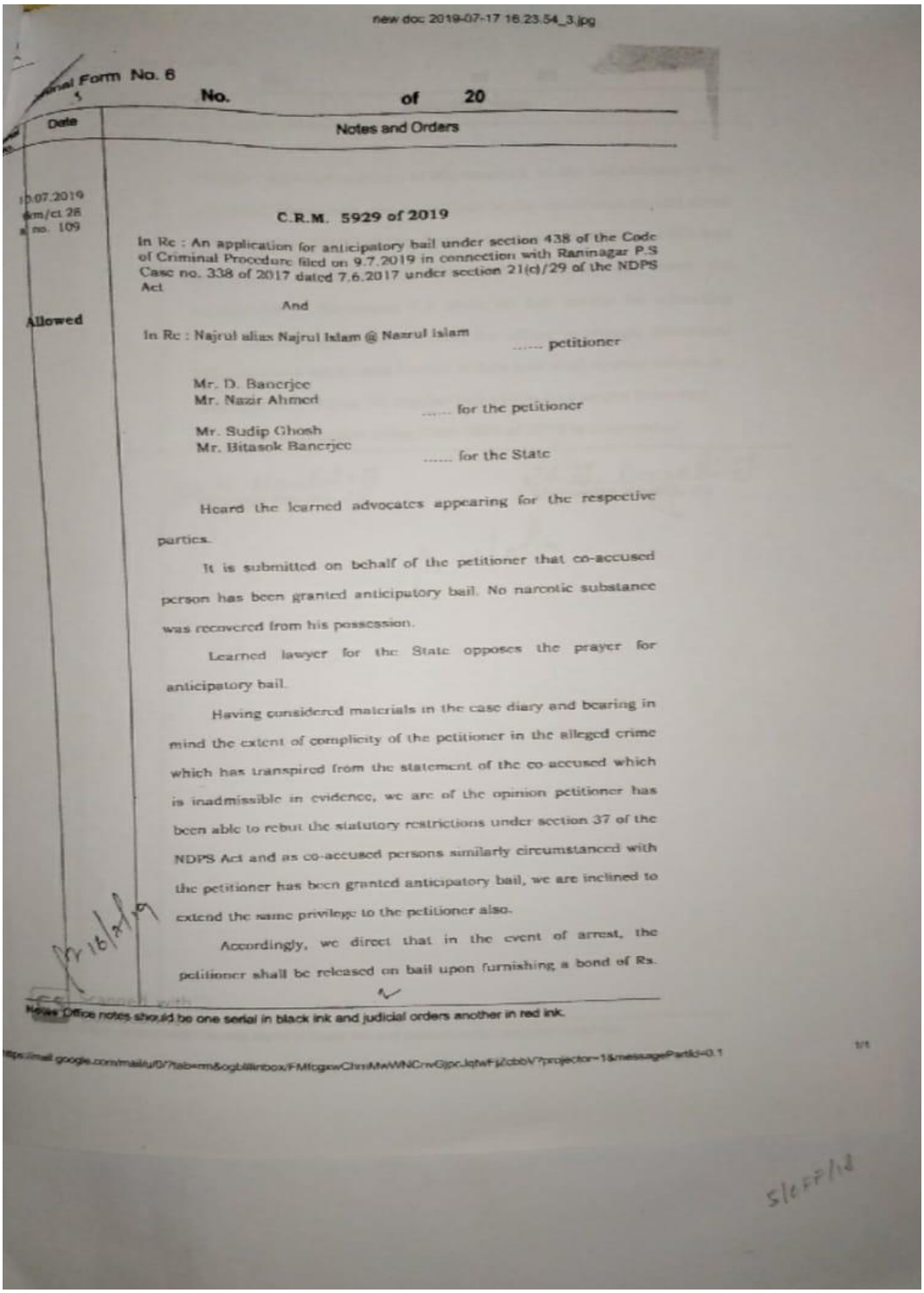
In that view of the matter, the petitioner is entitled to a direction, as prayed for.

The application, thus, stands allowed with the direction that in the event of arrest, the petitioner shall be released on bail upon furnishing bond of Rs.10,000/-, with two sureties of like amount, one of whom must be local, to the satisfaction of the Court below.

(Rajarshi Bharadwaj, J.) **(Dipankar Datta, J.)**

Annexure 15

Calcutta High Court's order in Nazrul Islam's case



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...inal Form No. 6

No. of 20

Date	Notes and Orders
10.07.2019 ...km/ct 28 ...no. 109	**C.R.M. 5929 of 2019**
	In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 9.7.2019 in connection with Raninagar P.S Case no. 338 of 2017 dated 7.6.2017 under section 21(c)/29 of the NDPS Act
	And
Allowed	In Re : Najrul alias Najrul Islam @ Nazrul Islam ..... petitioner
	Mr. D. Banerjee Mr. Nazir Ahmed ..... for the petitioner
	Mr. Sudip Ghosh Mr. Bitasok Banerjee ..... for the State
	Heard the learned advocates appearing for the respective parties.
	It is submitted on behalf of the petitioner that co-accused person has been granted anticipatory bail. No narcotic substance was recovered from his possession.
	Learned lawyer for the State opposes the prayer for anticipatory bail.
	Having considered materials in the case diary and bearing in mind the extent of complicity of the petitioner in the alleged crime which has transpired from the statement of the co-accused which is inadmissible in evidence, we are of the opinion petitioner has been able to rebut the statutory restrictions under section 37 of the NDPS Act and as co-accused persons similarly circumstanced with the petitioner has been granted anticipatory bail, we are inclined to extend the same privilege to the petitioner also.
	Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.

Notes: Office notes should be one serial in black ink and judicial orders another in red ink.

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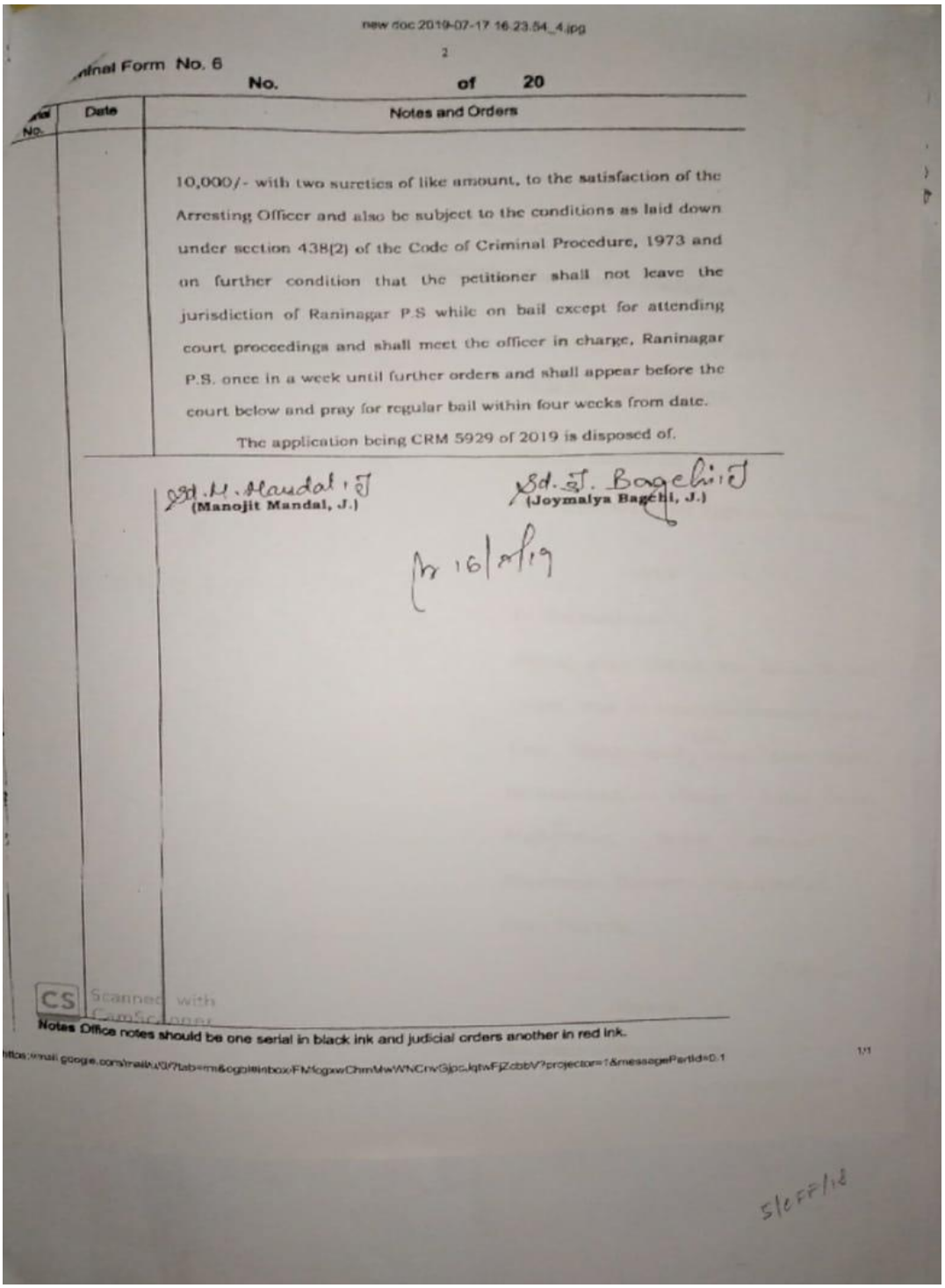
Page 2:



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2

Final Form No. 6

No. of 20

Date	Notes and Orders

10,000/- with two sureties of like amount, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall not leave the jurisdiction of Raninagar P.S while on bail except for attending court proceedings and shall meet the officer in charge, Raninagar P.S. once in a week until further orders and shall appear before the court below and pray for regular bail within four weeks from date.

The application being CRM 5929 of 2019 is disposed of.

Sd. M. Mandal J.
(Manojit Mandal, J.)

Sd. J. Bagchi J
(Joymalya Bagchi, J.)

16/07/19

Notes Office notes should be one serial in black ink and judicial orders another in red ink.

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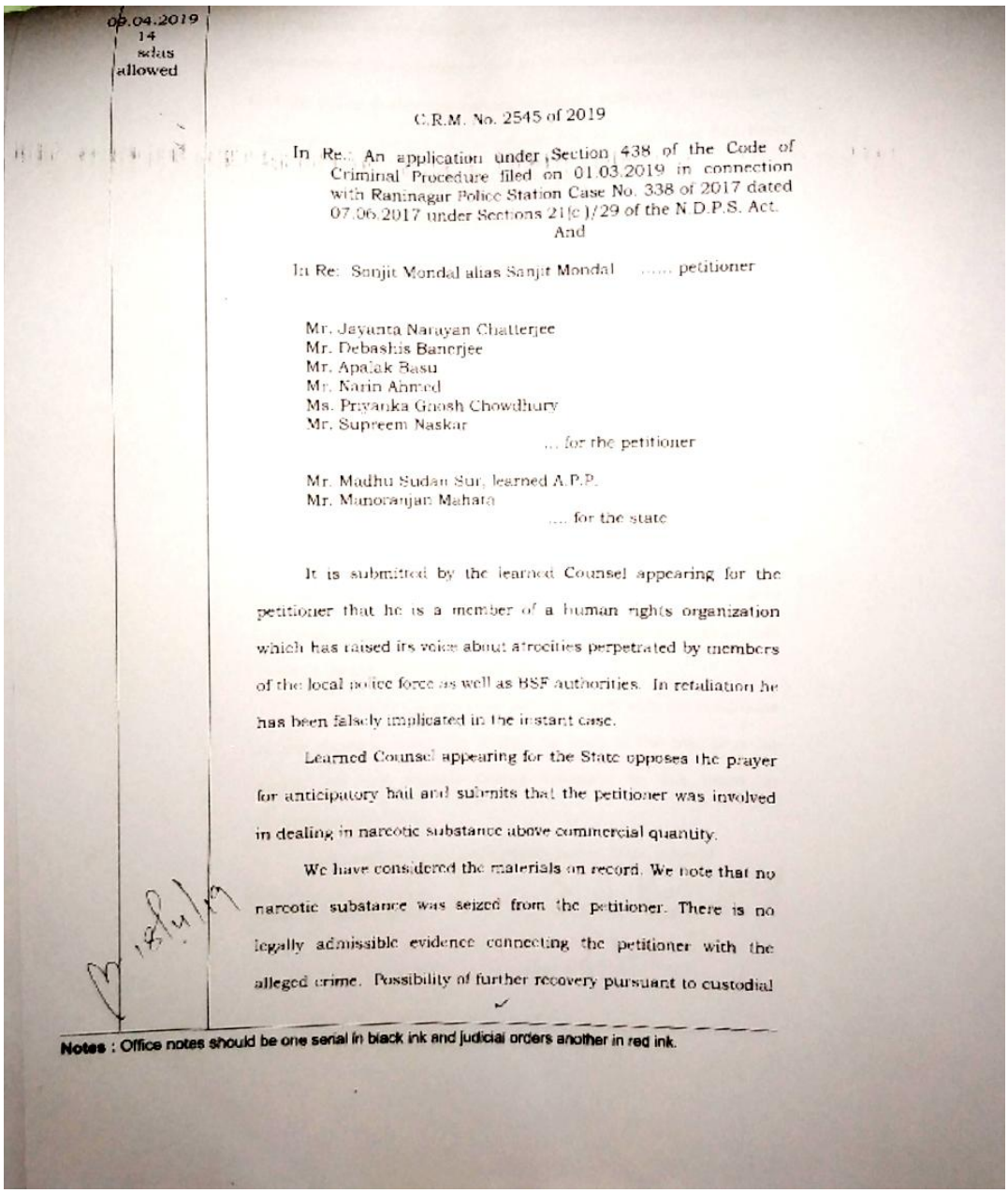
S/C FF/12

Annexure 16

Calcutta High Court's order in Sanjit Mondal's 1st case



09.04.2019
14
sdas
allowed

C.R.M. No. 2545 of 2019

In Re: An application under Section 438 of the Code of Criminal Procedure filed on 01.03.2019 in connection with Raninagar Police Station Case No. 338 of 2017 dated 07.06.2017 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re: Sanjit Mondal alias Sanjit Mondal ..... petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Debashis Banerjee
Mr. Apalak Basu
Mr. Narin Ahmed
Ms. Priyanka Ghosh Chowdhury
Mr. Supreem Naskar
... for the petitioner

Mr. Madhu Sudan Sur, learned A.P.P.
Mr. Manoranjan Mahata
.... for the state

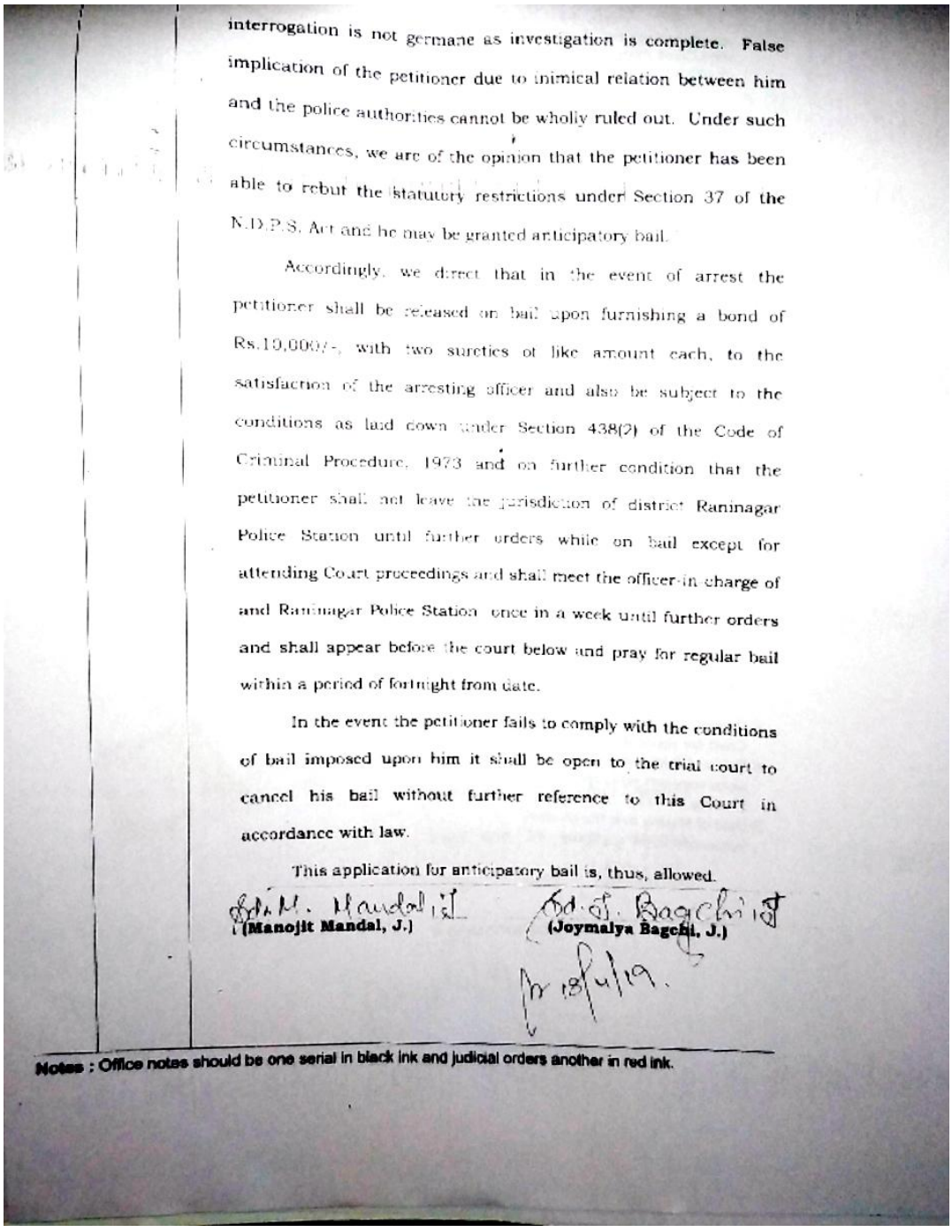
It is submitted by the learned Counsel appearing for the petitioner that he is a member of a human rights organization which has raised its voice about atrocities perpetrated by members of the local police force as well as BSF authorities. In retaliation he has been falsely implicated in the instant case.

Learned Counsel appearing for the State opposes the prayer for anticipatory bail and submits that the petitioner was involved in dealing in narcotic substance above commercial quantity.

We have considered the materials on record. We note that no narcotic substance was seized from the petitioner. There is no legally admissible evidence connecting the petitioner with the alleged crime. Possibility of further recovery pursuant to custodial

Notes : Office notes should be one serial in black ink and judicial orders another in red ink.

Page 2:



interrogation is not germane as investigation is complete. False implication of the petitioner due to inimical relation between him and the police authorities cannot be wholly ruled out. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the N.D.P.S. Act and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall not leave the jurisdiction of district Raninagar Police Station until further orders while on bail except for attending Court proceedings and shall meet the officer-in charge of and Raninagar Police Station once in a week until further orders and shall appear before the court below and pray for regular bail within a period of fortnight from date.

In the event the petitioner fails to comply with the conditions of bail imposed upon him it shall be open to the trial court to cancel his bail without further reference to this Court in accordance with law.

This application for anticipatory bail is, thus, allowed.

(Manojit Mandal, J.)

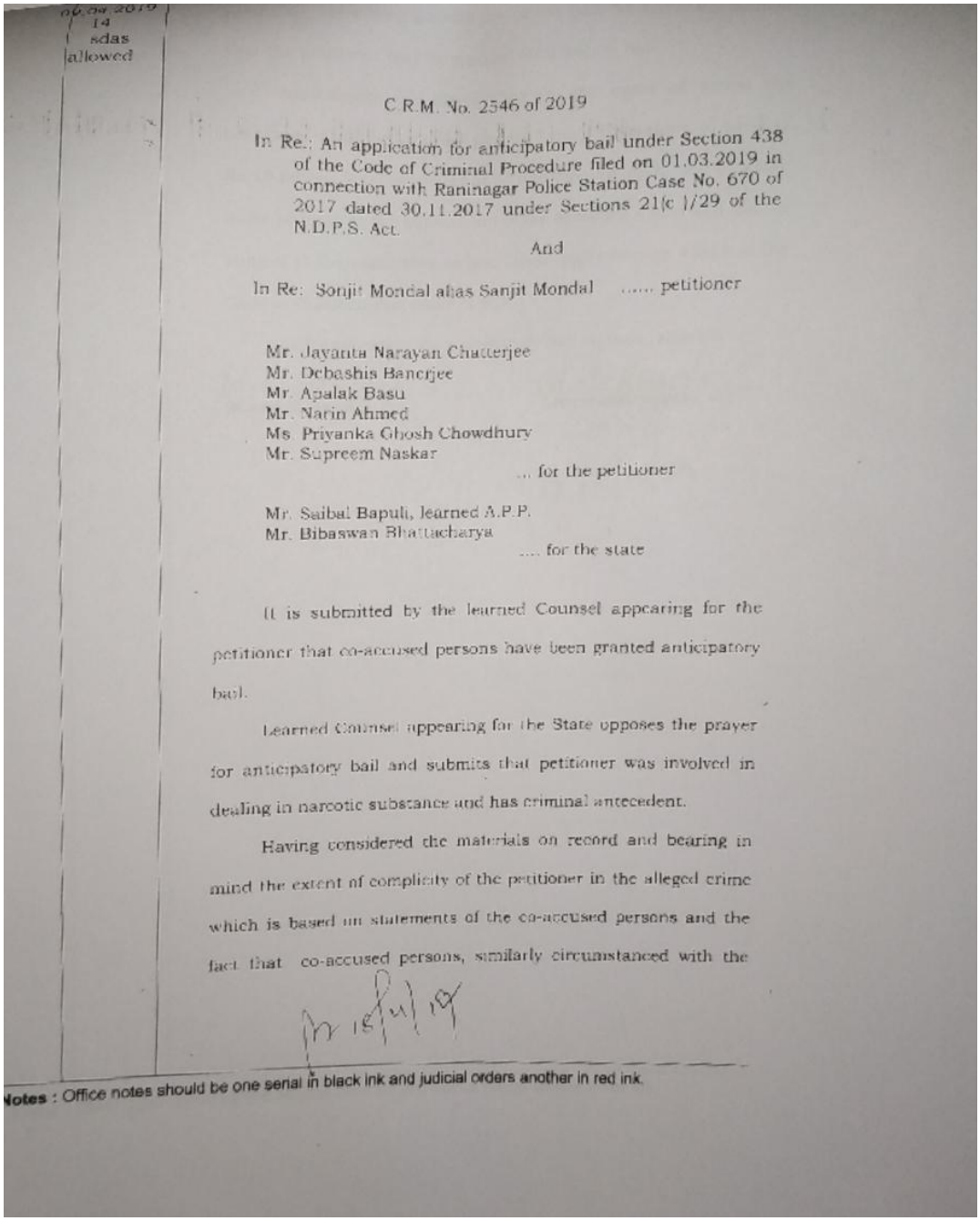
(Joymalya Bagchi, J.)

18/4/19.

Notes : Office notes should be one serial in black ink and judicial orders another in red ink.

Annexure 17

Calcutta High Court's order in Sanjit Mondal's 2nd case



14
sdas
allowed

C.R.M. No. 2546 of 2019

In Re.: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 01.03.2019 in connection with Raninagar Police Station Case No. 670 of 2017 dated 30.11.2017 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re: Sonjit Mondal alias Sanjit Mondal ..... petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Debashis Banerjee
Mr. Apalak Basu
Mr. Narin Ahmed
Ms. Priyanka Ghosh Chowdhury
Mr. Supreem Naskar
... for the petitioner

Mr. Saibal Bapuli, learned A.P.P.
Mr. Bibaswan Bhattacharya
.... for the state

It is submitted by the learned Counsel appearing for the petitioner that co-accused persons have been granted anticipatory bail.

Learned Counsel appearing for the State opposes the prayer for anticipatory bail and submits that petitioner was involved in dealing in narcotic substance and has criminal antecedent.

Having considered the materials on record and bearing in mind the extent of complicity of the petitioner in the alleged crime which is based on statements of the co-accused persons and the fact that co-accused persons, similarly circumstanced with the

Notes : Office notes should be one serial in black ink and judicial orders another in red ink.

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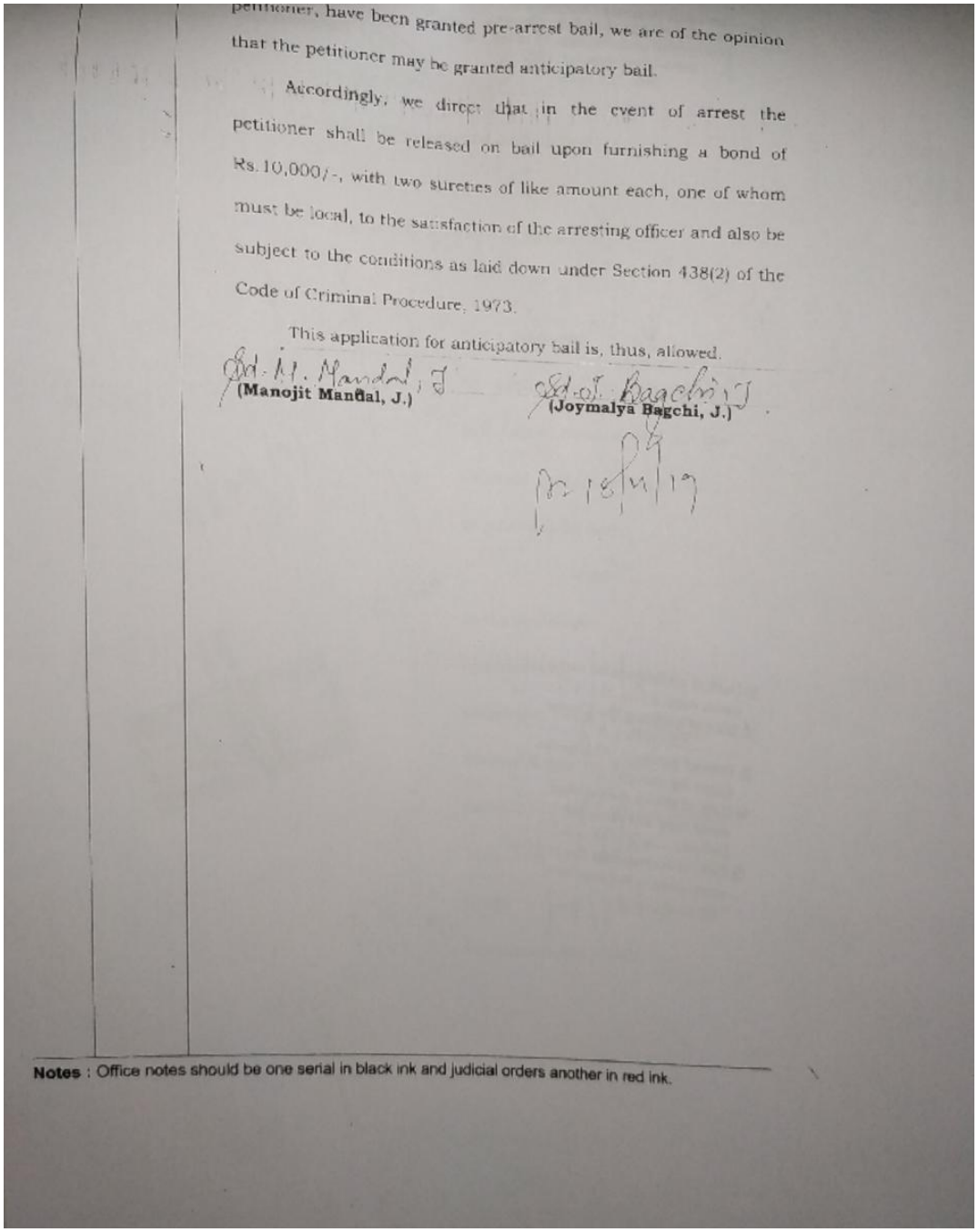


petitioner, have been granted pre-arrest bail, we are of the opinion that the petitioner may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

This application for anticipatory bail is, thus, allowed.

Sd/- M. Mandal, J
(Manojit Mandal, J.)

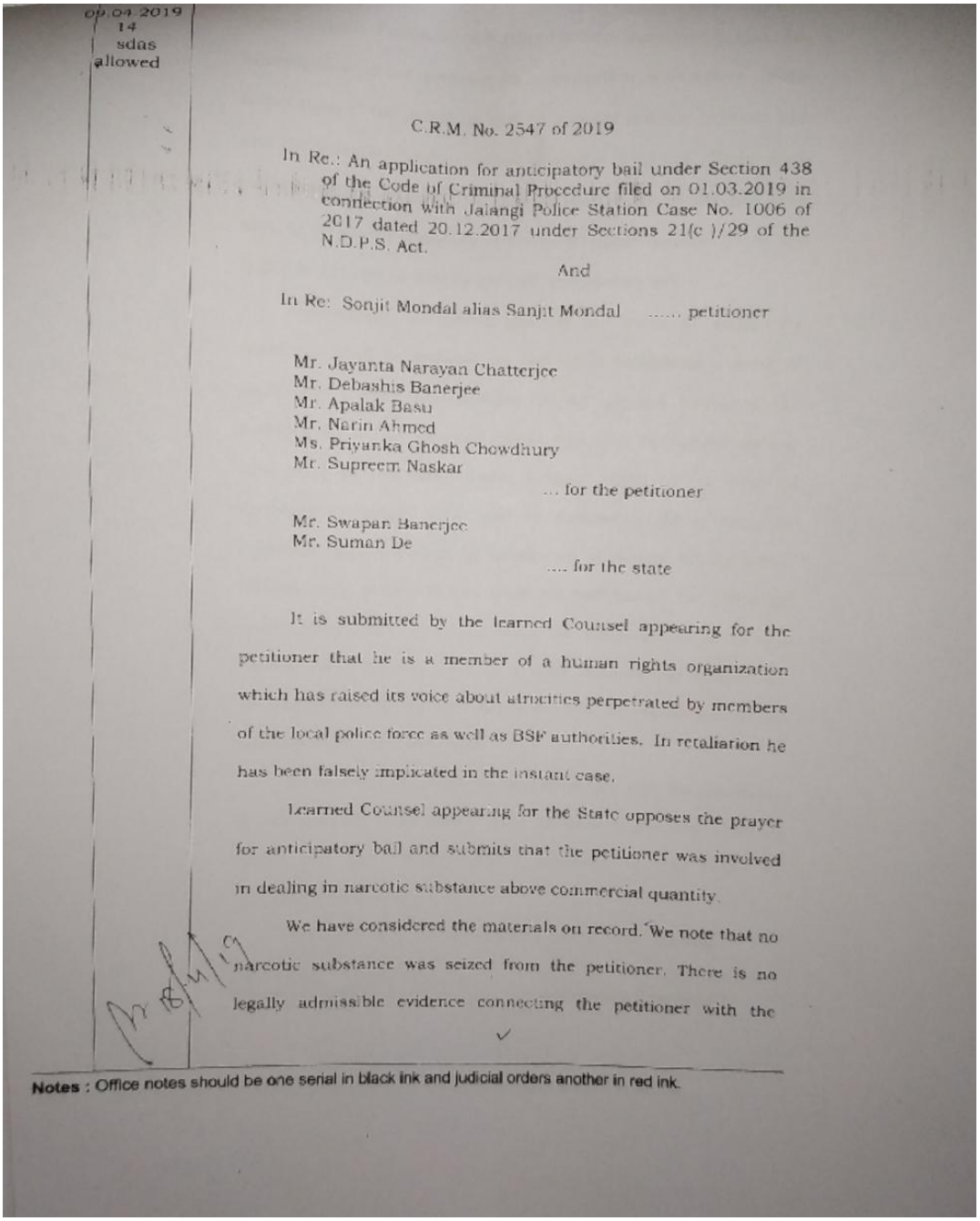
Sd/- J. Bagchi, J
(Joymalya Bagchi, J.)

Dt. 18/11/19

Notes : Office notes should be one serial in black ink and judicial orders another in red ink.

Annexure 18

Calcutta High Court's order in Sanjit Mondal's 3rd case



09.04.2019
14
sdas
allowed

C.R.M. No. 2547 of 2019

In Re.: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 01.03.2019 in connection with Jalangi Police Station Case No. 1006 of 2017 dated 20.12.2017 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re: Sonjit Mondal alias Sanjit Mondal ..... petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Debashis Banerjee
Mr. Apalak Basu
Mr. Narin Ahmed
Ms. Priyanka Ghosh Chowdhury
Mr. Supreem Naskar

... for the petitioner

Mr. Swapan Banerjee
Mr. Suman De

.... for the state

It is submitted by the learned Counsel appearing for the petitioner that he is a member of a human rights organization which has raised its voice about atrocities perpetrated by members of the local police force as well as BSF authorities. In retaliation he has been falsely implicated in the instant case.

Learned Counsel appearing for the State opposes the prayer for anticipatory bail and submits that the petitioner was involved in dealing in narcotic substance above commercial quantity.

We have considered the materials on record. We note that no narcotic substance was seized from the petitioner. There is no legally admissible evidence connecting the petitioner with the

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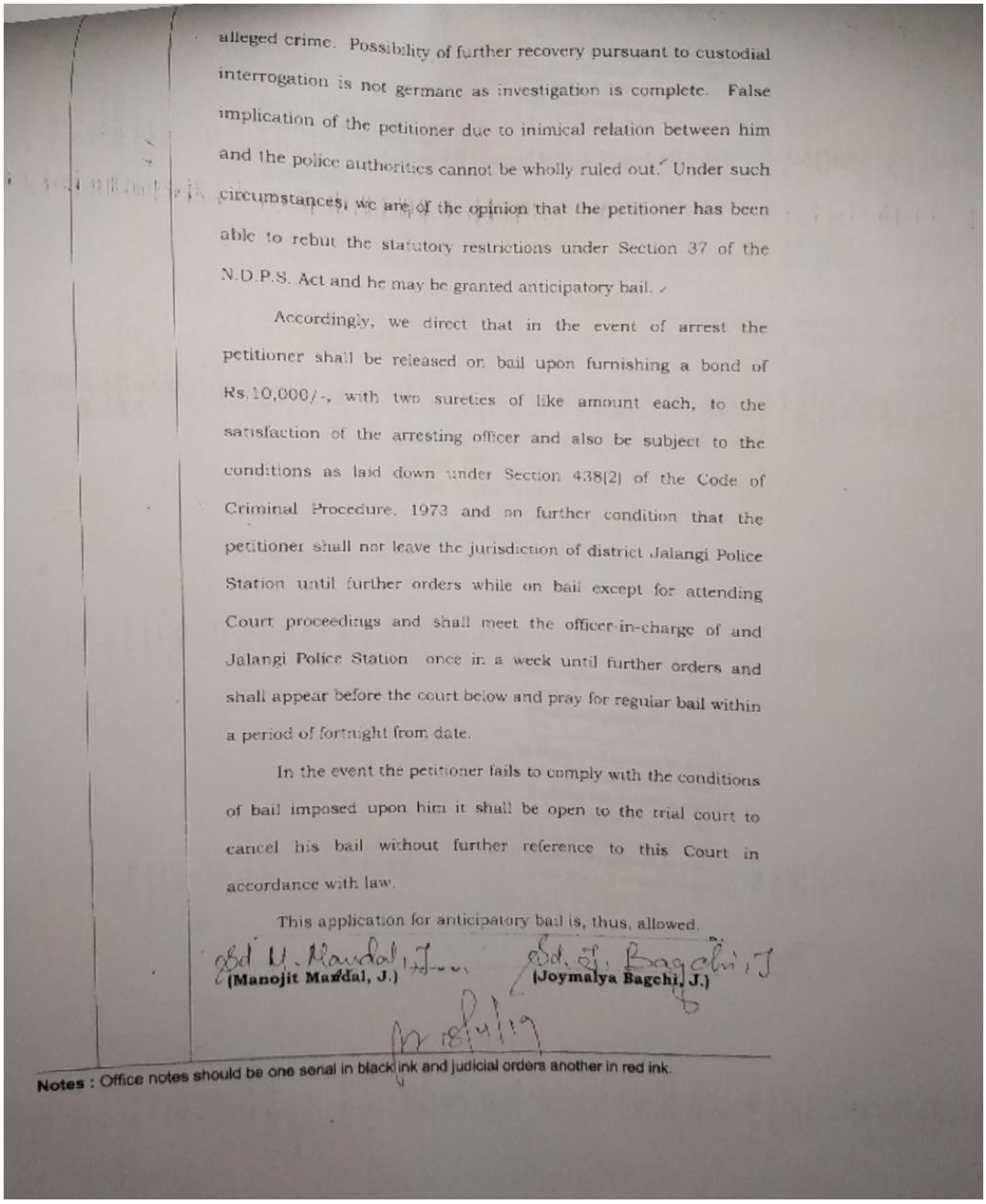

alleged crime. Possibility of further recovery pursuant to custodial interrogation is not germane as investigation is complete. False implication of the petitioner due to inimical relation between him and the police authorities cannot be wholly ruled out. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the N.D.P.S. Act and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall not leave the jurisdiction of district Jalangi Police Station until further orders while on bail except for attending Court proceedings and shall meet the officer-in-charge of and Jalangi Police Station once in a week until further orders and shall appear before the court below and pray for regular bail within a period of fortnight from date.

In the event the petitioner fails to comply with the conditions of bail imposed upon him it shall be open to the trial court to cancel his bail without further reference to this Court in accordance with law.

This application for anticipatory bail is, thus, allowed.

Sd/ U. Mandal, J. (Manojit Mandal, J.)

Sd/ J. Bagchi, J. (Joymalya Bagchi, J.)

18.4.19

Notes : Office notes should be one serial in black ink and judicial orders another in red ink.

Annexure 18

MASUM Secretary, Mr. Kirity Roy with Mr. Michel Forst, United Nations Special Rapporteur on Human Rights Defenders

About FORUM-ASIA

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a member based organisation with a mission to promote and protect all human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia. More info on www.forum-asia.org

About MASUM

Banglar Manabadhikar Suraksha Mancha (MASUM) was established in 1997 by a group of activist experts who had long experience working on human rights and civil liberties in West Bengal, India. MASUM acts as a platform for HRDs, grassroots human rights groups, and survivors collective. More info on www.masum.org.in