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A case that holds the answers to big questions

Will justice be allowed to run its course?

ACCORDING to a report published by this newspaper on Thursday, a CID probe has found that former Faridpur Awami League leader Sajjad Hossain (alias Barkat) and his brother Imtiaz Hasan (alias Rubel) amassed Tk 2,535.11 crore beyond their known sources of income. They did so under the protection, and with support, of at least eight other accused in a money laundering case, including the brother of a former minister, according to the probe. Only Tk 9.75 crore of the amount was found in their bank accounts, while the rest was siphoned off abroad.

This is perhaps the first time that a charge sheet has been submitted against someone connected to such a high-profile political family. And we are encouraged to see law enforcers going after these crooked individuals for their widespread corruption, despite their political associations. Once this family was untouchable—as the litany of corruption and wealth gathered all happened due to political protection.

These are not your run-of-the-mill criminals. Their rags-to-riches stories unfolded under political protection. And we are finally beginning to see the powerful patrons they had getting exposed. That being said, we also have to express our apprehension about whether this investigation will go to the very end—or whether there will be some political compromise or wheeling and dealing going forward, letting these people escape justice. The reason for the apprehension is simple: we have seen so many instances before where law enforcers go forward only to take a step back later. Only recently, we have seen the son of a high-profile politician being charged with all sorts of crimes, but then suddenly the cases were mysteriously dropped.

So if the government wants to claim that nobody is above the law, this should be a test case of a fair dispensation of justice. With that in mind, we hope the law enforcers are allowed to go through with their investigations without any outside interference or political pressure. Let justice take its own course.

26,695 rape cases filed in last 5 years!

But why is the conviction rate still three percent?

ACCORDING to a report by the office of the Inspector General of Police (IGP) submitted to the High Court recently, a total of 26,695 rape cases have been filed across the country in the past five years. As the incidents of rape are on the rise, the number of cases being filed in these incidents have also increased. However, when it comes to the conviction rate in rape cases, the situation is as grim as it was before. Reportedly, the conviction rate in rape cases is still only three percent, with around 97 percent of the accused getting acquittal from the court.

While the Women and Children Repression Prevention Tribunals (present in all 64 districts of the country) must finish the trial of the rape cases within 180 days of framing charges, the tribunals are not being able to complete the trials within the stipulated time. Delays in filing cases and conducting investigations are like a norm here while submitting the charge sheets takes years in some cases. There is also the culture of rapists intimidating the victims and their families so that they don't file cases or withdraw the cases that have already been filed. In such cases, the rape survivors rarely get protection from the law enforcers. Arbitration or out-of-court settlements are still a reality. And the legal system is still not friendly to the rape survivors in a society that often blames the victims, instead of the rapists, for the rape.

Moreover, while ensuring compensation for rape survivors and their families is as important as the prosecution of rape cases, the issue has been largely ignored. We know that a law has been drafted to address compensation for victims of violent crimes, including rape, but it could not be finalised in the last 14 years!

However, the High Court recently issued a rule directing the government to ensure compensation for rape victims, which is a positive development. It is also good to know that a monitoring cell has been formed in line with the HC directive to monitor whether the trials of the cases filed under the Women and Children Repression Prevention Act 2000, are completed in 180 days. We hope the cell will discharge its duty efficiently. However, it worries us to learn that a HC bench has recently issued a condition that the accused in a rape case will be granted bail if they marry their victims in jail, given that there was a previous relationship between them.

There are so many critical factors including the legal loopholes that contribute to the delay in ensuring justice to the rape survivors. All these factors must be addressed efficiently by our legal system and the society at large to ensure that the conviction rate in rape cases increases. Only with an increased conviction rate may we see a decrease in rape cases across the country.

LETTERS TO THE EDITOR

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Rice self-sufficiency is vital

With natural disasters of various types occurring around the world, we need to attain rice self-sufficiency and ensure a reliable supply chain so that there is enough food for people at all times. As we boost our agricultural production, we also need to have a good buffer stock which needs to be amassed. As a result, the normal rice production will naturally keep the market price stable and the government will be able to focus more on other national issues.

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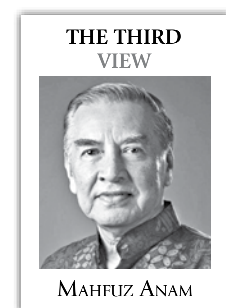
Why is personal freedom such a plaything of the law enforcers?

Arresting people on flimsy grounds is not rule of law, but its aberration

THE THIRD VIEW



Mahfuz Anam

ISN'T personal freedom one of the most cherished and universally celebrated principles of our civilisation? Isn't guaranteeing this freedom the most sacred task of a modern state? Hasn't individual freedom been recognised as one of the fundamental rights of every person, and as such enshrined in the UN's Universal Declaration of Human Rights? Hasn't that right been pledged to each and every citizen in every constitution of every modern state? Doesn't this—the guarantee of freedom to all—form the very basis of our own constitution? If all the above questions reflect irrefutable truths, then why are we so indifferent, so disrespectful, when it comes to assuring this fundamental right to our citizens?

One of the realities of the present-day administrative and justice systems that worries us deeply is the utter disdain with which personal freedom is treated by people who are in a position to decide whether a citizen will be free or in prison—the government, its law enforcement agencies and, we're afraid, even the justice system. We arrest people so easily, deny bail so swiftly, grant remand at the asking, and care nothing about what it means to the individuals who are at the receiving end of this seriously questionable process.

The provision for bail in our laws is there to ensure the freedom of the accused (not to be confused with a convicted person) while the investigation and trial are on. The bail is a right because the person has still not been found guilty. He has only been accused and the judicial process may find him innocent. So, denying an accused bail is actually punishing him before the judicial pronouncement has been made. Doesn't it amount to miscarriage of justice?

We make the above points not to point out the deficiencies of our justice system—which must also be addressed if justice is to have a real meaning for our people, especially the poor—but to underscore the more fundamental and vital flaw of our habit of undervaluing the notion of individual freedom.

Take the three recent cases for example. Photojournalist Kajol got bail on his 14th attempt while being in jail for seven months and "missing" for two. Cartoonist Kishore got bail on the 7th attempt after being in jail for 10 months. Poor Mushtaq tried for bail seven times, unsuccessfully, and later he died in prison, after 10 months since his arrest.

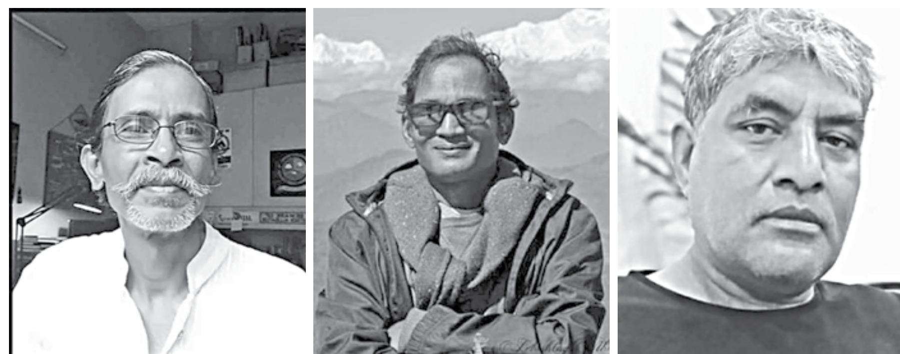
Whatever may be the official findings about the cause of Mushtaq's death, it was the system that condemned him to it. Imagine the judicial process that would be needed to mete out death penalty to the most vicious of criminals. Consider the appeal process that would be available to him to further seek justice. Writer Mushtaq was "condemned" and his punishment implemented without the minimum due process of law being available to him. In a sense, we are all guilty for his death. We should avoid making light of his death by saying no unnatural cause was found in relation to his death. His being in jail was unnatural—his failure to procure bail was unnatural. The whole circumstances of his incarceration depressed him. The unjustness of it all further affected him psychologically and mentally. On top of it all, physical and mental torture added to a burden that he was unable to cope with.

We must immediately move away from the casual and cavalier attitude we take in granting and not granting bail. Personal freedom should only be denied when a person is an "immediate" danger to society and when his staying "free" poses some sort of a threat to others for which the person concerned needs to be denied his freedom and put into prison.

Did any of the above fall into that category? The RAB members who arrested him, the police that kept him incarcerated, the public prosecutors who pleaded against their bails, and the judges who repeatedly denied them bail must answer the question as to what necessitated their being in jail while their cases were being investigated.

Even the dreaded DSA, in section 40, specifies that the investigating officer must complete his work in 60 days. Then, with due permission, it can be extended to an additional 15 days. A further 30 days can be granted by the Tribunal, making for a maximum time of 105 days that an investigating officer can take to complete his investigation.

Kajol got bail after more than 210 days in prison, and Kishore after over 270 days.



From left: Mushtaq Ahmed, Ahmed Kishore, and Shafiqul Islam Kajol.

When the honourable judge denied bail to Mushtaq, was the fact that he was already in prison for 270 days, and that the investigating authority had gone way past the legally allowable time of maximum 105 days, taken into consideration? Should this failure of the investigating officer be seen as the "weak" nature of the case? Shouldn't this have almost automatically qualified Mushtaq for bail?

According to available information, the investigating officers in all the three above cases did not seek any permission from the higher authority or from the Tribunal for the extra time they took for investigation. Therefore, the only legally allowable time available to the officers concerned was 60 days. The extra time they took were all outside the scope of the law. Instead of denying Mushtaq bail, the judge may have seen it fit to upbraid the investigating officer for failing to do his duty on time.

To us, this is a very important point and we urge our respected higher judiciary to take it up *suo moto* as it concerns the constitutional question of guaranteeing for fundamental rights and implementation of the law. If we still believe in the fundamental principal of our law that a "person is innocent till proven guilty", then we must stop treating "accused" persons as "guilty" and punishing them by denying bail, which is a right of an innocent person.

We think Mushtaq's death should compel us to work together to prevent its repetition. The government, the law enforcement agencies and the judiciary must put their heads together to make the process of arrest and bail more aligned to the global standards of fundamental rights.

The Digital Security Act (DSA) has not only been a cause for serious injustices to many of its victims but also an example of how self-defeating we sometimes can be, and how we end up damaging our own international image that could have easily been avoided.

Just the other day, the UN recommended Bangladesh for its graduation into the group of developing countries from 2026, and at the same time, the UN High Commissioner for Human Rights, Michelle Bachelet, said, "Bangladesh urgently needs to suspend the application of the Digital Security Act and conduct a review of its provisions to bring them in line with the requirements of international human rights law." One was a global acknowledgement of our success, and the other a criticism of a draconian law that has done us more harm than good.

Let there be no doubt that moving away from the LDC status is a tremendous success for Bangladesh. Given its severely challenging development hurdles and dysfunctional politics of the eighties, nineties and early twenties, few people had expected Bangladesh to rebound as it did. The stability and continuity provided by the present government—which needn't have come at such denigration of democracy—contributed significantly to our present robust economic growth.

However, in the midst of that successful and creditable journey, the government suddenly decided to institute the Digital Security Act, the ostensible reason being the expanding digital universe and the need to control cybercrimes. Our journalistic instinct alerted us to the fact that the real purpose was something else. Though we—representatives of Sampadak Parishad, BFUJ and ATCO—were invited to address our concern to the relevant Parliamentary Standing Committee (we were not invited at the ministerial-level drafting stage, though we were a vital stakeholder), the draft that was finally sent to the House for approval contained none of our suggestions. In fact, in some respects, the proposed Act was made harsher.

Being totally ignored by the legislative process, we felt forced to go public with the following collective statement:

"We notice with great concern that the Parliamentary Standing Committee, without holding the promised final meeting with us, completed the draft and sent it to the House for approval. As a result, this draft does not reflect the opinion of the journalist community."

Considering the above, we demanded: 1) removal of the inconsistencies of this law with existing laws; 2) ensuring that this law will in no way impede freedom of expression and freedom of the press; and 3) that the law be amended to safeguard the interest of journalists. We believe that while formulating the rules for this law, opportunity exists to meet many of our demands and make the law acceptable to all."

Now, looking back over two and a half years since the enactment of the DSA, it appears our apprehensions have proved to be more than justified, and the whole process appears to be drenched in bad faith. There was not even an iota of sincerity in what was being said. The promises that were made by Law Minister Anisul Huq and then-Information Minister Hasanul Haq Inu—that this law would not be used to curb the free press and against professional journalists—have all proved to be hollow. I recall the express commitment by the aforementioned ministers: that during the process of formulating the "Rules" for this law, provisions would be made to accommodate the fears and concerns expressed by the media representatives so that misuse does not occur. In fact, the "rules", as they now exist, maintained all the anti-free press provisions, and in some instances, have made the implementation even harsher.

Our protest against the DSA has been continuous and unrelenting since its enactment in September 2018. Yet it needed the death-in-custody of writer-commentator Mushtaq to stir some rethinking. We welcome the granting of bail by the High Court to cartoonist Ahmed Kabir Kishore on his 7th attempt. There are credible claims of torture on Kishore that we demand be investigated.

While we welcome the comments made by our law minister to the BBC, that no one will be arrested or sued under the Digital Security Act (DSA) before investigation, we saw one person arrested under DSA on the same day, Tuesday, in Dinajpur, for allegedly spreading "fabricated information with ill intention". On the same day, a court in Khulna rejected the bail petition of a person belonging to a socio-political group. He was picked up on February 26 and sued under the DSA. The minister's comments will have to be backed up with some immediate and credible actions for us to have faith in his words.

As Bangladesh aspires—and we all rejoice at it—to become a developing country, and at a later stage, a developed one, we must not only build infrastructure for the economy, but must also build "infrastructure" for good governance and justice. We must make our legal system modern so that it can dispense justice fairly, expeditiously and without political influence. A modern judicial system is just as important and necessary as anything else we do to modernise ourselves.

The way the government and the justice system have flouted the right to freedom of Kajol, Kishore and Mushtaq should set us all thinking about how sacrosanct personal freedom is and how never to allow it to be abused so easily and frequently.

Let Mushtaq's death not go in vain. Let it make us doubly aware of the importance of protecting individual rights. We hope that his agony, pain and sufferings will be a constant reminder that every citizen has some fundamental rights guaranteed by the constitution and that nobody has the right to deny them those rights. We hope that the law enforcement bodies will respect the constitution and our laws more sincerely, and the judiciary will come to the aid of the citizens when those rights are violated.

Mahfuz Anam is Editor and Publisher, *The Daily Star*.

Apparel diplomacy for the post-LDC era

Faruque Hassan

THE recommendation of the United Nations' Committee for Development Policy (CDP) for Bangladesh's graduation out of the Least Developed Country (LDC) status is both a matter of pleasure and of pride for every patriotic person of the nation. After the committee's recommendation for Bangladesh to become a developing nation, the proposal now will be sent to the United Nations Economic and Social Council (ECOSOC) for its endorsement in June this year. The UN General Assembly is scheduled to finally approve the proposal in September.

In the recommendation, three eligibility criteria for graduation such as per capita income, human assets, and economic and environmental vulnerability were considered, all of which Bangladesh met in the second triennial review of the LDC category by the CDP. We all know that our Readymade Garments (RMG) industry, which accounts for more than 83 percent of the country's total export earnings, has largely contributed to this graduation. So this is especially a happy occasion for all the apparel entrepreneurs, workers and professionals in the country.

However, the growth of our RMG industry has been accelerated by the fact that Bangladesh as an LDC enjoys duty-free market access to the European Union (EU)—which accounts for more than 60 percent of our total apparel exports—under the EU's Generalised Scheme of Preferences (GSP).

After graduating to a developing country status from an LDC, Bangladesh will no longer be eligible for the GSP facilities. But Bangladesh will have the opportunity to continue to enjoy duty-free access to EU countries if it can attain the GSP Plus. In order to be awarded the GSP Plus status, a country must fulfil two criteria set by the EU—namely, products that qualify for GSP Plus must be in the top seven largest exports from the country (apparel is the largest in Bangladesh), and the three-year average of exports of that product cannot exceed 6.5 percent of the total import of that product into the EU. Here, Bangladesh faces an issue, as its apparel export to the EU already accounts for about 9 percent of the latter's total apparel import from the world.

Therefore, Bangladesh needs "apparel diplomacy" to negotiate with the EU and convince them that this threshold should be extended to 12-13 percent, given that the apparel sector is the lifeline of Bangladesh's economy and also considering the EU market's importance to the industry as a whole.

In view of the impact of the Covid-19 pandemic on our economy, the UN's CDP has recommended that Bangladesh be provided with a five-year time till 2026, instead of the usual three years, to prepare for the transition. In these five years, Bangladesh will remain eligible to get duty-free access to the EU under the GSP. During this transition period, we need to continue our apparel diplomacy to confirm the GSP Plus for the post-LDC period.

It would not be an exaggeration to say that Bangladesh currently possesses some of its finest and talented apparel diplomats led by the Senior Foreign Secretary who himself has proved his mettle in the field. What we need is close collaboration between the industry and the government to secure Bangladesh's interests in the changing apparel landscape. It's worth mentioning here that the export threshold was extended from 4 percent to 6.5 percent when Pakistan was awarded with the GSP Plus. So, I believe with the industry insights, expertise of our civil servants, and the vision of the government, Bangladesh is well-placed to pursue the required apparel diplomacy for securing the extension of the threshold to around 12-13 percent.

Forming a joint taskforce with the Ministry of Foreign Affairs, Ministry of Commerce, and Bangladesh Garment Manufacturers and Exporters Association (BGMEA) would be really effective to perform the required apparel diplomacy for attaining GSP Plus.

Nevertheless, our RMG industry can no longer just depend on the two traditionally preferred business markets: the USA and the EU. While we need apparel diplomacy to keep the benefits of the traditional markets alive, we should also explore and exploit non-traditional markets like Japan, South Korea, Russia, Latin American countries, and even China and India.

The recommendation for Bangladesh's graduation came at a time when the country is ready to celebrate the 50th anniversary of its independence and the 100th birth anniversary of the Father of the Nation, Bangabandhu Sheikh Mujibur Rahman. So, it's a moment to celebrate and also an occasion for making our footings stronger. Further strides in the economic journey of any country come with certain conditions. We can no longer expect to rely on favourable or subsidised trading terms—we have to learn to evolve, adapt and survive among the fittest. We need to develop an industry that is fit-for-purpose for the years ahead. It's time to pursue active apparel diplomacy from both our government and representative trade bodies to ensure the continuation of a fruitful relationship with our largest apparel trading partners.

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