

# Continued use of post-bail 'shown arrested' cases risks repeating past abuses



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It is worth recalling that at his first press conference following BNP's election victory, Bangladesh's new prime minister, Tarique Rahman, was asked the following question: "Many people in Bangladesh remain supporters of the Awami League. What kind of reconciliation should there be for them?" His answer was simple: "By ensuring the rule of law."

Well, about one month into his premiership, the government's continued reliance on "shown arrested" cases against individuals associated with the Awami League suggests that Rahman's words remain just that—words. The BNP government appears to show little concern for the rule of law when it comes to such detentions.

The government may reasonably argue, as it does, that it needs time to address the injustices it inherited from the past. But proactively taking new decisions that produce further unlawful detentions is something else entirely. It is unjustified and should be strongly criticised.

The law on this matter is clear. Section 167A of the Code of Criminal Procedure states that where a person is already in custody and the police seek to show that person arrested in another case, a magistrate should allow this only if "the application appears to be well-founded." In other words, a person should not be shown arrested in a new case unless there is a genuine and substantial evidential basis for doing so.

This provision, newly brought in by the interim government, exists precisely to prevent "shown arrested" cases from being used as a political tool. In practice, however, this standard is hardly ever applied. With extremely rare exceptions, post-bail "shown arrested" cases appear to have no evidential basis whatsoever. They are used simply to prevent individuals from being released after securing bail from the High Court, thereby keeping them arbitrarily—and unlawfully—in detention. In effect, the bail granted by the court becomes meaningless.

This background helps explain what happened on March 11, when the High Court granted former Chief Justice ABM Khairul Haque final bail in the various cases pending against him. However, the process to release him was stalled after an arrest application was filed by police in yet another July 2024 murder case—a case in which, notably, he had not even been named in the original FIR. This



VISUAL: ANWAR SOHEL

seems like a wholly fabricated allegation.

It is difficult to believe that such a decision would have been taken independently by a local police officer or the officer-in-charge of a police station. The far more plausible explanation is that the decision to show the former chief justice arrested was taken at the political or bureaucratic level, most likely within the home ministry, which oversees the police.

In Bangladesh's politicised administrative structure, major decisions concerning high-profile detainees rarely occur without direction from senior officials. Police officers,

particularly those dealing with politically sensitive cases, generally act within signals or overt instructions given by the executive branch. The question is, what does the new home minister, Salahuddin Ahmed, have to say about this? Having himself been subjected to unlawful detention and enforced disappearance, will he now allow unlawful detentions to occur as a matter of practice under his own authority?

former mayor of Narayanganj, illustrates the problem. Recently, she was granted bail in five cases. However, following application from the police, she was shown arrested in another case that, again, appeared plainly fabricated. When the matter came before the magistrate, did the court independently examine whether the application was "well-founded"?

This pattern reflects a deeper institutional weakness in Bangladesh's criminal justice

minister, Md Asaduzzaman, must also step forward and take responsibility. Magistrates will continue to defer to the executive unless the government clearly signals that judges are expected to decide cases according to law and evidence, not political considerations. It needs to signal that they should no longer be executive rubber stamps, but independent judicial decision-makers.

This is why political leadership matters. In Bangladesh, judicial behaviour has long been influenced by signals from the executive. Magistrates and judges—like the police—often act either on direct political instruction or on what they understand the government expects of them.

If magistrates continue to approve "shown arrested" applications with no evidential basis, it will be difficult to avoid the conclusion that the government is tolerating, if not encouraging, the misuse of criminal procedure to keep political opponents in detention. Someone with Asaduzzaman's background—who spent many years involved with the human rights organisation Ain o Salish Kendra, and even served on its executive committee—should understand better than most how dangerous such practices are for the rule of law.

There are, unfortunately, many in Bangladesh who care little for the rule of law or due process. For them, anyone associated with the Awami League deserves to be detained, convicted, and punished, whether or not there is evidence of an actual crime. Many of these voices, often young and unfamiliar with how a fair justice system operates, see virtually any act that supported the previous political government as a criminal offence. And where no such offence exists, they are content for them to be arrested for any offence at all.

This mindset exists not only under authoritarian regimes (as Bangladesh suffered during the later years of the Awami League government); it often emerges in the aftermath of political upheaval. Periods of transition can create strong public demands for accountability, but those demands can easily slide into collective punishment, which is exactly what is happening in the country now. If this mentality continues to prevail, Bangladesh risks returning to the same pattern of systemic human rights abuses that characterised the latter years of the Awami League government.

Moreover, bringing fabricated July 2024 murder cases against individuals who have no connection to those events is not merely arbitrary, harassing, and unlawful. It is also deeply disrespectful to the memory of those who were killed. The victims of the July protests deserve genuine justice based on credible investigations and fair trials. Using their deaths as a pretext for politically motivated arrests undermines that objective and risks turning a search for accountability into yet another cycle of injustice.

## Why the government must prioritise RTI

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After the first cabinet meeting of the new BNP government on February 18, a 180-day priority plan was announced focusing on controlling commodity prices, maintaining law and order, stabilising supply chains, and ensuring uninterrupted gas and electricity supply. Given the difficult inheritance from the interim administration, setting these priorities was expected as they addressed the immediate anxieties of ordinary households and the basic conditions for economic stability.

However, if the government truly intends to deliver on these commitments, and sustain public confidence while doing so, it must tackle a less visible but more decisive requirement: a governance system that is transparent, accountable, and responsive to citizens. Without that foundation, even well-designed welfare programmes can be weakened by information gaps, weak monitoring, and administrative inertia.

In this regard, a promising signal was when Prime Minister Tarique Rahman urged senior officials to honour the people's mandate sincerely. He stressed the importance of merit-based performance, insisting that officials act in accordance with the constitution, the laws, and the rules of business. This emphasis on rules-based governance creates an opening to revive one of Bangladesh's most powerful yet chronically underused democratic instruments: the Right to Information (RTI) Act, 2009.

Properly applied, RTI can help the government improve service delivery, raise integrity in public programmes, and build trust in institutions. Tragically, RTI was among the laws most conspicuously neglected during the interim period, leaving the regime close to paralysis. If the new government is serious about a fresh approach to governance, reviving RTI should be among its earliest reforms.

It bears repeating that government initiatives—social safety nets, health services, education stipends, and infrastructure—often falter not because of a lack of intent but because oversight is weak. Beneficiaries are frequently unaware of how the programmes are designed, how resources are allocated, which criteria apply, or who is responsible for delivery. In that vacuum, welfare policies risk remaining promises on paper. RTI addresses this problem at its source.

When citizens can access information about where resources go, how programmes are run, and whether targets are met, a clear chain of positive outcomes follows: transparent information resulting in a more informed citizenry, better monitoring, better accountability, more effective service delivery, and stronger trust in public institutions. RTI turns citizens from passive recipients into constructive participants. It enables them to ask informed questions, detect gaps between policy and practice, and press for corrective action. Far from undermining government programmes, RTI strengthens them by improving integrity, efficiency, and public confidence.

To that effect, the first practical step for the BNP government will be to restore the Information Commission immediately. During the interim period, key positions remained vacant, leaving citizens with little recourse when authorities ignored or obstructed requests.

Backlogs grew and civic engagement declined. The government can quickly reverse this by appointing the three designated information commissioners, including the chief information commissioner, through a credible and transparent process consistent with the Act. This is urgent not only to clear pending cases but also to send a clear message to the bureaucracy and public alike that impunity and secrecy will no longer be acceptable.

Once a credible commission begins working, many activists and ordinary users who have retreated in frustration in recent months will return. That said, it is also important that expert recommendations on the RTI (Amendment) Ordinance, 2026 are heeded before the ordinance is passed in parliament.

The value of RTI is best seen in outcomes. One of its strongest contributions in Bangladesh so far has been in improving the integrity of social safety net programmes. Citizens, often with civil society support, have used RTI to ask simple but powerful questions: How were beneficiary lists prepared? Who participated in the selection? What criteria were applied? Frequently, the prospect of disclosure alone deterred nepotism and exposed irregularities, helping ensure that limited resources reached those most in need.

RTI has also strengthened healthcare delivery, especially for vulnerable communities. Citizens have sought information on free medicine supplies, doctors' attendance records, and sanitation schedules at public facilities, often prompting immediate corrective action once officials realised that records could be scrutinised.

A striking example is the Nilphamari Mother and Child Health Welfare Centre, where beneficiaries were repeatedly told that no doctor was available and services effectively ceased. In January 2025, an RTI

request seeking the list of posted doctors and attendance records revealed prolonged unauthorised absences. The disclosure increased public awareness, triggered pressure for accountability, and prompted a more responsive local administration, thus helping restore services for mothers and children.

Similar improvements have been documented elsewhere, reducing misuse of scholarship funds and exposing contractors' non-compliance in roads and highways projects. These instances exemplify how RTI works best, not as a tool

for sensational exposure but as a mechanism of continuous correction. This means identifying problems early, fixing them promptly, and improving systems over time.

For a government that wants to deliver results and rebuild trust, RTI offers a constructive pathway. It is therefore vital to establish a clear institutional focal point within the government to engage with RTI users, civil society, and concerned citizens so that feedback is translated into administrative improvements and transparency becomes routine rather than exceptional. For example,

citizens can be useful allies in implementing the government's new family card and farmer card programmes.

The government's priorities cannot be achieved sustainably without transparency and accountability. The RTI Act provides proven, practical means to bridge this gap. By restoring the Information Commission, strengthening compliance, and encouraging civic engagement, the new government can improve service delivery and lay the foundations for trust-based, participatory governance.

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