



# THE PERPETUAL MISERY

THE PLIGHT OF THE ACCUSED  
UNDER THE DIGITAL SECURITY  
ACT 2018 IN BANGLADESH



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# INTRODUCTION

During a parliamentary session on 5 June 2023, Law Minister, Anisul Huq, informed the assembly that between 8 October 2018, the day of its adoption, and 31 January 2023, over 7,001 cases have been filed under the Digital Security Act (DSA) (The Daily Star 2023). This was the first acknowledgment from the government of the total number of cases filed under the law which has been an issue of intense debate at home and abroad. The statement, however, fell short of providing details of the extensive use of the law. The minister did not reveal as to how many people have been accused and arrested, how many of the cases have undergone the trial process, how many people have been convicted, how many are languishing in jail as pre-trial detainees and how many have been convicted. The law, when introduced in 2018, was claimed to have been enacted to provide security to the citizens in the digital arena. But over the past years, various academic studies, reports of international and national human rights organizations, and organizations which track freedom of media have documented that the law has been used wantonly by the government and supporters of the ruling party to silence the critics. These studies and reports have shown that the law has been used as a tool to suppress freedom of expression, stifle voices of dissent, and serve the interests of the government and the ruling party activists in Bangladesh. It is well recorded that the law's vague provisions infringe upon fundamental rights enshrined in the country's Constitution and international agreements. It is against this backdrop, human rights activists, editors, and politicians have been demanding the repeal of the law.

Recent developments can be traced back to the amendment of the Information and Communication Technology (ICT) law in 2013 and the introduction of the Digital Security Act (DSA) law in 2018. The DSA has caused distress and anguish to the general populace and has been subjected to intense criticism by various human rights organizations and press freedom groups since it was drafted in early 2018.

The minister's statement came almost three months after UN High Commissioner for Human Rights, Volker Türk urged the Bangladesh government to immediately suspend the enforcement of the law (OHCHR 2023). Türk's comment was a follow-up to the Office of the United Nations High Commissioner for Human Rights (OHCHR)'s Technical Note to the Government of Bangladesh on review of the Digital Security Act (OHCHR 2022). The note, shared with the Bangladesh Government in June 2022, was prepared after years of consultations between the OHCHR and the Bangladesh government (Ahmed 2023).

On 7 August 2023, the government announced that the Digital Security Act would be repealed and will be replaced with a new law called the Cyber Security Act (CSA) (Mahmud, 2023). This decision was met with considerable apprehension and anxiety among the general public. The government also announced that although the DSA will be replaced with the CSA, cases filed under the DSA will be continued. Law Minister told, 'there is no scope for quashing the cases filed under the Digital Security Act and there is no question of giving compensation in this regard' (The Business Standard 2023). This statement clearly showed that the government is oblivious to the anguish and distress caused by the law to a large number of people. The primary concern with the

CSA is that it has almost copied all the provisions of the much-criticized DSA. On 13 September 2023, the act was passed by the parliament and subsequently, the CSA became a law with the ascent of the President Mohammad Shahabuddin. The potential ramifications of this change will no doubt be a topic of discussion in the coming months and years as the new legislation is implemented. But the lingering impacts of the DSA, which has become an unending nightmare for thousands of people, is beyond doubt. Those who have been accused and being tried, in many instances wrongfully, will have to endure the agony of going through the criminal justice system.

This statement clearly showed that the government is oblivious to the anguish and distress caused by the law to a large number of people. The primary concern with the CSA is that it has almost copied all the provisions of the much-criticized DSA. On 18 September 2023, the Cyber Security Act (CSA) was gazetted and on 13 September 2023, the act was passed by the National Parliament, subsequently the CSA became a law with the ascent of the President Mohammad Shahabuddin.

It is against this background that this report is prepared under the project conducted by the Centre for Governance Studies (CGS). The CGS has been tracking the extent of the use of the DSA. The project, initiated in early 2020, has previously published three reports documenting how the law has been implemented and who has become the victims of the cases. They are 'Digital Security Act, 2018: How Is It Being Enforced' (April 2021); 'The Unending Nightmare: Impacts of Bangladesh's Digital Security Act 2018' (April 2022); 'What's Happening: Trends and patterns of the use of the Digital Security Act 2018 in Bangladesh' (January 2023). The project continues to gather information about the use of the DSA since its introduction in October 2018 and a dedicated website continues to update as we receive and verify the information. In continuation of the work, this report presents 12 case studies involving 10 individuals who have been accused under the DSA over the past years and facing legal proceedings. Individuals whose cases are examined are: Didarul Islam Bhuiyan, Lutfur Rahman Shawon, Mamunur Rashid Nomani, Md. Abdul Kaium, Pritom Das, Shanto Banik, Ruhul Amin, and Imitiaz Ahmed Kajol. Two individuals—Jhumon Das Apon and Khadijatul Kubra—had two cases filed against each of them. Jhumon Das Apon, was arrested and detained on two occasions, while Khadijatul Kubra was detained for both cases simultaneously.

This report contextualizes these cases within the broader picture of the use of the law. This report presents an analysis of the Digital Security Act (DSA) trends from 8 October 2018 to 30 September 2023. The data draws upon information from approved media sources, the accused, their networks, lawyers, and relevant authorities. All data is available at <https://freedominfo.net/>.



# THE INTRODUCTION AND AMENDMENT OF THE DSA

The Digital Security Act (DSA) came into effect on 8 October 2018 in the background of criticisms against the Information and Communication Technology (ICT) Act 2006. The ICT Act was promulgated in 2006 but was amended in 2013 which added stringent punitive provisions in Article 57. The law was widely used through 2013 and 2018.

After the abolishment of the caretaker government provision from the constitution in 2011 by the incumbent Bangladesh Awami League (BAL), opposition parties demanded the restoration of the system and threatened to boycott the 2014 election. The 2013 amendment of the ICT Act appears to have been made to address the growing opposition and the use of cyberspace to express discontent against the government and use of the cyberspace to organize opposition activities.

The second context that the DSA encountered was related to the political unrest and the parliamentary elections held in 2018. With the election scheduled in December, the government began the process of formulating a new law in mid-2017. International organizations, including Reporters Without Borders and Human Rights Watch, criticized the DSA, and Amnesty International labeled it as "deeply problematic." The government's commitment to amend the act was not fulfilled, leading to disappointment within the journalist community.

As the DSA was being wantonly used as a tool of suppression, OHCHR repeatedly expressed concerns and made specific suggestions regarding the amendment to the DSA. On 31 March 2023, the UN High Commissioner for Human Rights, Volker Türk, urged the Bangladesh government to immediately suspend the enforcement of the Digital Security Act, expressing apprehension that the act is being utilized to suppress freedom of expression. His predecessor, Michelle Bachelet, had also voiced similar concerns during her visit to Bangladesh on 17 August 2022 (OHCHR, 2022). The OHCHR recommended the repeal and revision of specific provisions within the act. Although the UN Human Rights office expressed concerns about the vague provisions of the DSA previously, Türk issued this statement following the arrest of Shamsuzzaman Shams, a correspondent for Prothom Alo (A National Daily).

The arrest of Shams was related to his Independence Day report on price hike. Charges were also brought against the Editor, Matiur Rahman, for the same news report. Instances like these are not isolated, as there are numerous cases where individuals



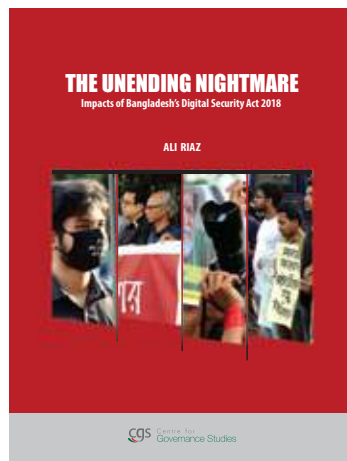
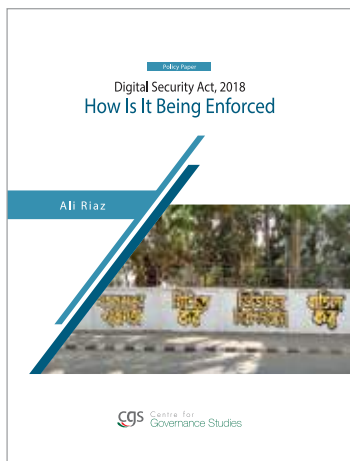
have been apprehended and subjected to mistreatment merely for advocating for justice and expressing their opinions.

After years of public protests, the government finally took a step to amend the Digital Security Act (DSA). However, the Editors Council issued a joint statement expressing reservations about the government's policy decision to repeal the DSA (Prothom Alo 2023). The statement emphasized that the concerns raised by participants over an extended period have now been validated. It was also highlighted in the statement that during the transition from the Information and Communication Technology (ICT) Act to the DSA, the government did not consider the opinions of stakeholders. This pattern repeated with the DSA transforming into the Cyber Security Act (CSA). Critics-from the editorial board, journalists, and intellectual circles-have collectively referred to the CSA as "old wine in a new bottle."

OHCHR repeatedly expressed its concerns and made specific suggestions regarding the amendment to the DSA. On 31 March 2023, the UN High Commissioner for Human Rights, Volker Türk, urged the Bangladesh government to immediately suspend the enforcement of the Digital Security Act, expressing apprehension that the act is being utilized to suppress freedom of expression.

The basis for this criticism lies with the fact that a few sections of the DSA, namely 17, 21, 22, 25, 26, 28, 29, 30, 31, 32, and 40, have been altered, with section 33 being abolished. Consequently, section 34 of the DSA became section 33 of the CSA, and section 40 became section 39. Sections 17, 19, 21, 22, 23, 24, 26, 27, 28, 30, 31, 32, 33, and 34 were non-bailable under the DSA, where under the CSA every section has been made bailable except for the section 17, 19, 27 and 32. Additionally, in various sections, the punishment for a second offense was either doubled or increased under the DSA, but such provisions have been eliminated in the new CSA law.

Despite these changes, the highly criticized section 42 (previously section 43 in the DSA), granting the police unquestionable power to arrest individuals without a warrant, remains unchanged. This situation reinforces the public sentiment that the CSA is merely a repackaging of the old DSA.



## WHAT MADE THE DSA LETHAL?

The DSA grants the government sweeping authority to launch investigations into individuals deemed a 'threat' by the authorities. It empowers law enforcement to make arrests without a warrant based solely on suspicion of social media-related crimes. Additionally, the legislation confers the police with the right to conduct searches and seizures without any judicial approval or oversight. Section 43 of the DSA granted authorities the power to conduct raids, carry out searches, or make arrests on the grounds of the suspicion that a crime is being perpetrated or is imminent, or that evidence may be destroyed. This provision grants the police extensive and often abused powers, making the DSA more potent. Unfortunately, this problematic section has remained in the newly enacted CSA as Section 42. The Act further permits the government to mandate the removal and blocking of online content it deems necessary, providing a wide-ranging tool to suppress dissent and stifle those who criticize its policies or expose human rights violations. Concerns have been raised regarding nine specific sections of the DSA—namely, 8, 21, 25, 28, 29, 31, 32, 43, and 53—criticized for being vague and lacking proper definitions. Among the 22 provisions addressing offenses and penalties, 14 were non-bailable, raising apprehensions about prolonged pre-trial detention.

The trial process for any case in Bangladesh is often protracted and beset by various issues, resulting in significant hardship for the accused individuals. Cases brought under the Digital Security Act (DSA) are especially noteworthy in this regard. What distinguishes these cases is that many of the accused individuals are detained without undergoing trial, which is deeply concerning and possibly illegal. The accused are often detained pre-trial for an indefinite period, and the 60-day period for filing charge sheets is rarely followed. The police possess the authority to detain individuals without a warrant, which leads to cases being initiated post-arrest, catching the accused unaware of the charges until after detention. The presence of non-bailable provisions exacerbate the situation, resulting in extended periods of incarceration. Editors and journalists argue that these stringent measures contribute to an environment of fear, as the accused can be held indefinitely before their trial is completed under the non-bailable provisions.

The legal framework ostensibly provides safeguards to prevent injustices against the accused. Upon filing a case, law enforcement officers are required by law to submit an investigation report, which serves as the basis for charging the accused. The law stipulates a 60-day period for the submission of the investigation report, with the option for investigating officers to request a 15-day extension if needed. Any delay beyond this 75-day window places the case under the tribunal's jurisdiction. The tribunal can extend the investigation for another 30 days. Even after that, if the Investigation Officer fails to complete the investigation, the Tribunal may extend the time to a reasonable period. However, recent instances have indicated that even if the investigation report was not provided within a reasonable time frame, the accused remains in custody, effectively enduring punishment before the trial's commencement.

Furthermore, anyone can file a case against anyone under this law. The law permits anyone, not only aggrieved persons, to file a case against any individual. This has enabled hundreds of people to file cases alleging that a third person's reputation has been tainted. This provision has evidently created an environment wherein ruling party activists have filed cases against their political adversaries for demeaning their leaders, including the Prime Minister.

## THE BIG PICTURE

The project has documented 1410 cases filed under the Digital Security Act (DSA) from October 2018 to September 2023. In these cases, 4,404 individuals faced accusations, among them 1,519 persons were arrested. Tragically, Mushtaq Ahmed, an author and social activist, passed away in February 2021 under suspicious conditions while remaining in jail custody for a period of ten months. It is alleged that he was tortured in custody (Dhawan 2022). A breakdown of the cases over the five years (Oct 2018-September 2023) shows that per month on average 23.5 cases have been filed, 73.4 persons faced accusations and 25.31 accused got arrested.

The number, though really big, doesn't cover all the cases filed or all the people accused. This is because law enforcement agencies do not share numbers of the cases and accused individuals. Even efforts under the Right to Information law have hit a dead end (see: "Unending Nightmare", pp.11-12). Since it started in October 2018, a lot of secrecy has been wrapped around information about cases and accusations under the DSA. The data from the cyber-tribunal only shows the cases that have reached the trial stage. So, these numbers only represent a small part. However, as the Law Minister Anisul Huq revealed in June 2023, the number of cases until January 2023 was 7,001.

A noteworthy observation pertains to the fact that a majority of cases involve multiple accused individuals. According to our analysis, each case has an average of 3.12 accused. Extrapolation of the average to the number of cases mentioned by the Law Minister makes at least 21,867 persons being accused. On average 1.07 persons have been arrested per case, that makes at least 7,542 persons who have been arrested at some point of these cases going through the legal system.

While some of the arrestees have successfully obtained temporary bail, a subset remains incarcerated as pretrial detainees. The absence of governmental transparency renders it impossible to ascertain the precise number of individuals subjected to this predicament. The protracted detention of the accused aligns with the legal framework, as delineated by the 14 non-bailable sections of the law. Within the ambit of non-bailable statutes, the court possesses the discretion to grant bail at its discretion, leading to divergent outcomes for the accused. The intricacies of securing bail are underscored by instances where the court has repeatedly denied bail petitions; example include Mushtaq Ahmed, whose bail prayer was denied on at least six occasions Lutfar Rahman, where bail prayer was denied 12 times, and Imtiaz Ahmed Kajol, where bail prayer was denied 9 times.

Contrary to expectations, the increase of cyber-tribunals from one to eight, each corresponding to an administrative division, has failed to expedite trial proceedings or facilitate expeditious bail for the accused.

Regarding the professions of those accused, we determined the professional backgrounds of 1,486 individuals. Notably, politicians, journalists, and students constituted the largest cohorts, with 464 (31.22%), 442 (29.74%), and 135 (9.08%) instances, respectively. Consequently, individuals from these professional domains faced a higher rate of arrest. Among the 563 individuals about

whom we have been able to obtain information, 141 were politicians, 95 were journalists, and 100 were students. In the case of teachers, out of the 59 accused, 42 were subjected to arrest, with 17 of them being madrassah teachers.

These legal actions were initiated by both the government and private individuals. We were able to identify the complainants in 846 cases. Among these, 252 cases were filed by law enforcement agencies and government officials, while 333 cases were lodged by private individuals with direct affiliations to political parties. Notably, out of these politically linked individuals, 259 were associated with the ruling Bangladesh Awami League (BAL), constituting a substantial 77.78% of all individuals with political ties.

Over the last five years, the law has been frequently invoked, alleging defamation against the Prime Minister, other ministers, and politicians. Our database indicates that 190 cases have been initiated, accusing individuals of defaming the Prime Minister. In these cases, 464 individuals faced accusations, with 161 of them subjected to arrest. Among these 190 cases, law enforcement agencies filed 31, while individuals filed 159 cases. From the latter category, we identified the political affiliations of 92 individuals, all affiliated with the ruling Bangladesh Awami League and its associated organizations.

Similarly, 80 cases were filed accusing 337 individuals for defaming various ministers. Among these cases, only eight were filed by law enforcement agencies, and six were lodged by the aggrieved ministers and their family members. The remaining 66 cases were initiated by individuals unconnected to the aggrieved parties. Notably, at least 68 individuals among the 337 accused were subjected to arrest.

Cases involving accusations of defamation against politicians have exhibited a similar trend. As of September 2023, a total of 208 cases were filed, implicating 724 individuals. Among these, seven cases originated from law enforcement agencies, 91 cases were initiated by aggrieved politicians, and 110 were filed by their supporters. Among the accused, at least 135 individuals faced arrest in connection with these cases.

In recent years, with the proliferation of internet access and the widespread use of social media, particularly Facebook, has experienced exponential growth. Social media platforms have become a prominent channel for expressing dissatisfaction with societal issues and government policies. In this milieu, the Digital Security Act (DSA) has been wielded as a tool to stifle dissenting voices. Our data indicate that 894 cases have been filed against 2289 individuals concerning posts and comments on Facebook. Among these 894 cases, 129 were specifically filed for allegedly offending religious sentiments, implicating 198 individuals.

Among the 22 sections of the Digital Security Act (DSA) addressing offenses and penalties, four have been notably prevalent: Sections 25, 29, 31, and 35. Section 25 saw the highest use, with a total of 261 cases filed, involving 892 accused individuals, out of which 179 were arrested. Similarly, Section 29 featured prominently, accounting for at least 259 cases, with 875 accused and 145 individuals subjected to arrest. Section 31 witnessed the initiation of 161 cases, encompassing 527 accused individuals, among whom 126 faced arrests. Lastly, Section 35 was used in 169 cases, with a cumulative 951 accused individuals, of which 194 were arrested.



# THE PLIGHTS OF THE ACCUSED

Numerous legal proceedings have been initiated against a multitude of individuals under the Digital Security Act. These cases had and continue to have far-reaching and deleterious consequences. A comprehensive examination of this legal framework reveals that individuals have not only encountered severe harassment but also faced instances of abduction, torture, and, tragically, loss of life. These instances stand as stark testimony to the inhumane dimensions of the law.

Among the myriad cases, there exist glaring examples that underscore the egregious nature of the allegations. For instance, a case was filed against a minor, a mere two years of age at the time (RTV News 2023). In another case, Md Emon, a 14-year-old student in the ninth grade, found himself accused of posting a critical status against Prime Minister Sheikh Hasina on a social media platform. The socioeconomic backdrop of Emon's family, characterized by financial hardship, further exacerbates the challenges they face in navigating the legal complexities of the case (Daily Manab Zamin 2023). There has been a case against a farmer named Abu Zaman, an illiterate farmer in Gazaria village, Kishoreganj. This farmer doesn't even have a smartphone and internet access, let alone a Facebook account. Yet he has been accused under the Digital Security Act for a social media post (The Daily Star 2021). There is another case where a student was arrested under the Digital Security Act on charges of hurting religious sentiment through her posts on Facebook. Interestingly, the case was filed against her after the arrest. She was released from jail after two years and seven months after confessing her crime and seeking mercy mentioning she is a mother of a breastfeeding child (The Daily Star 2023). Regrettably, these are not aberrations, as hundreds of similar cases have been filed. The injustices perpetrated under the Digital Security Act are poignantly exemplified by the plight of Mushtaq Ahmed, who succumbed to the harsh conditions of incarceration.

Md Emon, a 14-year-old student in the ninth grade, found himself accused of posting a critical status against Prime Minister Sheikh Hasina on a social media platform. The socioeconomic backdrop of Emon's family, characterized by financial hardship, further exacerbates the challenges they face in navigating the legal complexities of the case (Daily Manab Zamin 2023).

In this context, a focused inquiry has been conducted, scrutinizing twelve specific cases involving 10 individuals selected from the vast pool of victims. These cases include, cases against Didarul Islam Bhuiyan, the coordinator of the organization "Rashtrachinta"; Jhumon Das Apon, a private sector employee; Khadijatul Kubra, a student at a public university; Lutfur Rahman Shawon, a journalist; Mamunur Rashid Nomani, a journalist; Md. Abdul Kaium, a human rights defender and journalist; Pritom Das, a businessman and a politician; Shanto Banik, a journalist; Ruhul Amin, a businessman and politician; and Imtiaz Ahmed Kajol, a social worker. Through careful examination of these cases, the manifold implications of the Digital Security Act on the lives of the accused become palpably evident.

The selected cases became widely known nationwide and got a lot of attention because the victims went through devastating experiences. News and social media covered these cases, and they drew attention of the members of the civil society. However, hundreds of people accused under the DSA are facing similar or even worse predicaments. The victims suffer not just for a short time but for many years, facing both mental and physical torment. Their torment has no end in sight.

Selecting the cases was challenging because complete info wasn't available in the public domain. Secondary sources like newspapers and social media protests were used as a point of departure but followed up with verifications through other sources including conversations with the victims and their lawyers. Their statements were meticulously recorded and are utilized only with their explicit consent. This method ensures a comprehensive understanding of the circumstances surrounding each case, fostering a nuanced and ethical approach to the investigative process. While our report focuses on the legal measures the accused have faced, we should not ignore the fact that the sufferings were not theirs alone. Financial hardships notwithstanding, families of these accused have experienced and continue to face agonies.

The following section presents a detailed examination of twelve specific cases, accompanied by a visual depiction of the timeline encompassing the entire procedural journey—from the day of the victims' arrest to the present. This visual representation offers a chronological overview, delineating the trajectory of each case.



## CASE STUDY - 1

# DIDARUL ISLAM BHUIYAN

### Case Summary

Didarul Islam Bhuiyan (39), along with 11 others, faced charges of spreading anti-state propaganda under Sections 21/25/31 and 35 of the Digital Security Act. Mr. Bhuiyan was arrested on 5 May 2020, and after spending five months in jail, he obtained bail on 14 September 2020. The case also involved accusations of spreading misinformation about Bangabandhu Sheikh Mujibur Rahman, the liberation war, and the COVID-19 pandemic.

After extensive investigation, a police report against eight individuals, including Bhuiyan, was submitted on 5 February 2021. The case was marked by legal complexities, including unsuccessful bail applications and a stay order on trial proceedings by the High Court on 3 May 2023. Bhuiyan is associated with a political movement namely "Rashtrachinta" which criticizes government policies and is also involved with various humanitarian efforts. He contended that the case was false, fabricated, and filed only to harass and humiliate him for his anti-government activism. Bhuiyan expressed concerns about the misuse of the Digital Security Act and called for accountability for false cases. Currently, he is on interim bail, awaiting further legal developments in the case.

### Case Details

On 5 May 2020, Didarul Islam Bhuiyan was arrested by the RAB-3 team from his current residence in North Badda, Dhaka, on charges of spreading anti-state propaganda. Along with 11 others, he was charged with committing offenses under Sections 21/25/31 and 35 of the Digital Security Act, and a case was filed against them at Ramna Model Police Station, Dhaka Metropolitan Police (DMP) on the same night. After spending five months in jail, he was released on bail for six months on 14 September 2020, following a court order.

Afsar Ahmed of the Counter Terrorism and Transnational Crime Unit (CTTC) lodged a complaint before the Chief Metropolitan Magistrate's Court in Dhaka on 10 May 2021. However, Bhuiyan contested the allegations. The Court dismissed his application. Subsequently, Mr. Bhuiyan sought recourse at the High Court against the lower court's decision. On 3 May 2023, a Division Bench of the High Court comprising Mr. Justice M. Badruzzaman and Mr. Justice S.M. Masud Hossain, stayed the trial proceedings of the Digital Security Act case against Didarul Islam Bhuiyan. As of now, he remains on bail pending further legal developments.

### Background

Didarul Islam Bhuiyan, the coordinator of a political think-tank organization called "Rashtrachinta," has been charged under the Digital Security Act along with 11 others. They were alleged for spreading rumors, misinformation, or false information through social media to damage the image of the state, create confusion, and incite unrest among the people. Their alleged offenses relate



CASE STUDY

DIDARUL ISLAM BHUIYAN



to the tarnishing image of Bangabandhu Sheikh Mujibur Rahman and misinformation regarding the liberation war of Bangladesh, and the Covid-19 pandemic. Additionally, the administrators of the 'I am Bangladeshi' page, including Sayer Julkarnain, Ahmed Kabir Kishore, Ashiq Imran, Philip Shumakher, Swapan Wahid, and Mushtaq Ahmed, have been alleged for engaging in anti-state conversations via WhatsApp and Facebook Messenger.

## Remand

On 7 May 2020, following the case filed against Didarul Islam Bhuiyan (39) under the Digital Security Act, the investigating officer, Sub-Inspector Md. Jamshedul Alam, prayed for a seven-day remand of the accused. In response, the legal counsel for the accused filed a plea for bail and opposed the remand prayer. However, the Dhaka Metropolitan Magistrate Rajesh Chowdhury denied prayers of both sides.

The remand application submitted by the investigating officer alleged that the defendants had conspired to spread misinformation and create confusion through various Facebook pages and IDs. The intent of their actions was to defame the image and reputation of the state and to spread propaganda against government party leaders. The misinformation included false information regarding the coronavirus, the founding father of the nation Bangabandhu Sheikh Mujibur Rahman, the liberation war of Bangladesh, the armed forces, and the heads and members of various security forces. The defendants also used cartoons as a medium to spread their propaganda.

## Bail

On 9 August 2020, Didarul Islam Bhuiyan submitted an application for bail before the High Court. However, the application was rejected. On 14 September 2020, a High Court Bench, comprising Mr. Justice M. Enayetur Rahim and Mr. Justice M. Mostafizur Rahman, granted an ad-interim bail for Didarul along with a ruling. The bail application was presented and moved by lawyers namely Hasnat Qaiyyum, Jyotirmoy Barua, and Kazi Jahed Iqbal. Deputy Attorney General M. Sarwar Hossain represented the state.

## Charge sheet

Nearly nine months following the case, a police report was filed against eight individuals, including activist Didarul Islam Bhuiyan, cartoonist Ahmed Kabir Kishore, and writer Mushtaq Ahmed under the Digital Security Act. Investigating Officer Mahsin Sardar submitted the report before court on 5 February 2021. On 10 February 2021, Judge As-Shams Jaglul Hossain of the Bangladesh Cyber Tribunal ordered further investigation into this case. Thereafter another investigating officer was engaged namely Afsar Ahmed and he submitted another report to the Chief Metropolitan Magistrate's Court in Dhaka on 10 May 2021, after concluding the investigation. As per the investigation report, seven individuals, including Didarul Islam Bhuiyan, have been implicated of committing offenses under the Digital Security Act.

The allegation states that the accused individuals have been involved in mutual coordination to disseminate confusion and misinformation through various Facebook pages and IDs with

regard to the coronavirus, the father of the nation, Bangabandhu Sheikh Mujibur Rahman, Bangladesh's Liberation War, and various security forces and their chiefs. They have also defamed the image and reputation of state and government party leaders by spreading rumors and creating confusion with the same propaganda and intention.

## Chronology of Legal Proceedings

- 1<sup>st</sup> Hearing : 7 May 2020. Remand and Bail Hearing. The remand and bail we denied.
- 2<sup>nd</sup> Hearing : 16 June 2020. Remand Hearing. The remand was denied.
- 3<sup>rd</sup> Hearing : 9 August 2020. Bail Hearing. The bail was denied.
- 4<sup>th</sup> Hearing : 14 September 2020. Bail Hearing. The bail was granted.
- 5<sup>th</sup> Hearing : 20 April 2022. Hearing on Discharge from Accusations. No order was passed.
- 6<sup>th</sup> Hearing : 4 April 2023. Hearing on Stay Order of Case Proceedings. No order was passed.
- 7<sup>th</sup> Hearing : 3 May 2023. Hearing on Stay Order of Judicial Proceedings. The order of stay was passed.

## Accused's Statement

When Didarul Islam's case was filed, he was a member of the "Rashtrachinta" organization. On 5 May 2020, during the height of the COVID-19 pandemic, many people who were affected by the virus were unable to buy food due to the situation. In response, Didarul and other organizations worked together to deliver food to those in need. They also formed the Disaster Assistance Monitoring Committee, which published a report based on government resources. The report showed that the most impoverished area in Bangladesh was Kurigram, but it received the least amount of assistance. Meanwhile, Narayanganj, which is the wealthiest area according to the government survey, received the most food and financial aid. After publishing the report, within two to three weeks the victim received multiple threats, and at one point, he was taken from his workplace to the RAB-3 office. However, the RAB later denied this. During this time when Didarul was not found anywhere, his colleagues immediately went to neighboring offices to inquire about his whereabouts, but the search process was unsuccessful. Additionally, his family tried to file a GD (General Diary) at the police station, but it was not accepted. They were told that RAB had taken him away, thus preventing them from filing a GD. After his abduction, he was interrogated for seven hours with a cloth covering his head and handcuffs on his hands. Recalling the mental torture he had to face, he said "If a person is interrogated for seven hours with a cloth covering their head and handcuffs on their hands, no one can understand their mental state without experiencing it." The next day, he was shown at Ramna Police Station as an accused in the DSA case, and it was said that he was arrested with two CPUs and a laptop in front of a hospital.

Didarul asked a question during the incident "Why would someone be in front of a hospital with so many things?" Afterward, as part of the judicial process, he was sent to jail through the court, and then he spent five months in jail. Five months later, a charge sheet was submitted in his name, based on the evidence that happened after he came out of jail three months later, which means they alleged him for committing offenses of a crime which will take place in future. Initially, Prothom Alo had covered a report on this charge sheet, and the witnesses in this case, whose

statements were recorded, were various building security workers and managers, only one witness was from the police or the Rapid Action Battalion. It is said that on social media, his friend Mushtaq Ahmed, who later died in custody, the second accused, was involved in anti-state and anti-government activities, and they have found evidence of such activities. The evidence they have shown is a Facebook status Didarul posted three months later, which was a poem. The poem loosely translated reads, 'I thought I would find justice, I thought I would find human dignity, I thought I would find fair trial. Instead, I found the highest difference between the rich and poor, I found oppression, I found torture. This is the DSA case.' This poem is being used as evidence against him in this case. The trial of this case has been going on for almost a year. Mr. Bhuiyan asserts that, initially the courts were reluctant to hear his bail matter and they faced hurdles to put the matter before court. However, Didarul was hopeful and he stressed, "But focus on one thing, the nature of this case and the charge sheet, it is evident that it is a false case."

A Facebook status has been shown as evidence of this case after three months of being released on bail. Didarul said with utmost frustration "A case should be filed against the perpetrators for making these false allegations, as they knew about it even before I received bail after five months of being in jail. Moreover, if this turns out to be a crime, then use of this law itself is treason against the state."

Didarul has been accused of four charges - treason, sedition, conspiracy against the state, and conspiracy against the government. However, Didarul insists that those who accept this law are abusing it against the state. He stated, "Some ministers occasionally claim that it has been misused, and I do not agree with them. In any case, the application of this law is a misuse. In other words, DSA has created an atmosphere of fear." Due to the severe consequences of this law, Didarul demands appropriate compensation for those who have suffered due to false cases under this law. He further added, "We want punitive measures against those who filed false cases, along with an investigation. In conclusion, what I want to say is that DSA is not Bangladesh's first repressive law. There have been similar laws before, and there are even more repressive laws in addition to the DSA. It should not be that the government can make laws as it wishes, and every law must be mandated by the people before it is enacted."

## **Current Status of the Accused**

Didarul Islam Bhuiyan has prayed before the lower court for discharging him from the case as being false. However, the lower court dismissed that application. Subsequently, Didarul went to the High Court against the lower court's decision. As a result, on 3 May 2023, a Division Bench of the High Court comprising of Mr. Justice Md. Badruzzaman and Mr. Justice S.M. Masud Hossain Dolon was pleased to stay further proceedings of that case filed under the Digital Security Act against Didarul Islam Bhuiyan and others. Advocate Hasnat Qaiyyum represented Didarul in court. Assistant Attorney General Md. Mizanur Rahman represented the state. Currently, Didarul Bhuiyan is out of jail on interim bail.

## CASE STUDY - 2.1

# JHUMON DAS APON

### Case Summary

Jhumon Das Apon, a 24-year-old youth from a rural background in Sunamganj, faced legal troubles when he criticized Islamic orator Mamunul Haque's remarks on social media about Bangabandhu and the Hindu deity Shri Krishna. This led to communal tension, and attacks on houses and temples in the area. Jhumon Das was arrested under the Digital Security Act on 22 March 2021. He spent about 6 months and 12 days in jail before getting bail on 28 September 2021, with a few conditions.

The case originated from his criticism of Mamunul Haque, but it escalated into an attack on Jhumon's house and violence against the Hindu community in response to his Facebook status. Despite voluntary surrender to the police, Jhumon faced challenges, including financial burdens like legal and circumstantial costs and the mental trauma from the ferocious attack on his house and village.

The legal proceedings included several bail hearings, and ultimately the High Court granted him bail on 23 September 2021. As of now, Jhumon Das is free on bail and his case is currently pending for trial before the Sylhet Cyber Tribunal.

### Case Details

On 22 March 2021, one Sub-Inspector (SI) of Sunamganj Shalla Police Station namely Abdul Karim filed a case under Section 25(1)(a)/31(2)/35 of the Digital Security Act against Jhumon Das Apon (24) on charges of creating communal disorder by posting indecent posts on social media against the Joint Secretary General of Hefazat-e-Islam Bangladesh, Maulana Mamunul Haque and religious issues. After being in jail for about 6 months and 12 days, he was released on bail on 28 September 2021, with directions to comply with various conditions. The case is currently pending for trial before the Sylhet Cyber Tribunal.

### Background

On 15 March 2021, Mamunul Haque, Central Joint Secretary General of Hefazat-e-Islam, Bangladesh addressed a rally at Dirai, Sunamganj. Following the rally, it is alleged that Jhumon Das criticized them and gave a 'provocative and offensive' status on Facebook. Following this, people from the Hindu community made various comments on his post. Subsequently, the people of the local Muslim community staged a protest march demanding legal actions against Jhumon. In this context, communal tension arose in the area. To bring the situation under control, Jhumon Das was arrested from the local market on 16 March 2021, by Shalla Police Station. On 17 March 2021, he was shown arrested under section 54 of the Criminal Procedure Code of 1898 and sent to jail through the court. Five days later, on 22 March 2021, Abdul Karim the Sub-Inspector (SI) of Sunamganj Shalla Police Station filed a case against Jhumon Das Apon for causing communal disorder under Section 25(1)(a)/31(2)/35 of the Digital Security Act.

CASE STUDY

JHUMON DAS APON (CASE 1)



## Remand

On 22 March 2021, when presented to the court, Investigating Officer Md. Shah Ali prayed for 7 days of police remand in connection with that case before the Senior Judicial Magistrate Cognizance Court. Two days remand was granted and Jhumon was taken to a two-day police remand on 27 April 2021, for further questioning on the allegation of communal disturbance in the case. After the interrogation, the police applied for the continued detention of Jhumon in jail for the purpose of investigating the case, and the court granted it.

## Bail

On 18 July 2021, the lawyer of Jhumon Das sought bail at the Magistrate's Court. Subsequently, his application for bail in the session and district court was denied on 3 August 2021. Thereafter, a bail petition was filed before the High Court and the High Court considered the bail application on 21 September 2021. Finally, on 23 September 2021, a High Court bench, comprising of Mr. Justice Mustafa Zaman Islam and Mr. Justice KM Zahid Sarwar, granted one-year bail to Jhumon with direction to comply with specific conditions. During the court proceedings, lawyers ZI Khan Panna, Nahid Sultana, and Ashraf Ali represented Jhumon, while Assistant Attorney General Mizanur Rahman represented the state.

## Charge sheet

The police have submitted the Charge sheet.

## Chronology of Legal Proceedings

- 1st Hearing : 20 April 2021. Remand Hearing. The remand was granted.
- 2<sup>nd</sup> Hearing : 11 May 2021. Bail Hearing. The bail was denied.
- 3<sup>rd</sup> Hearing : 18 July 2021. Bail Hearing. The bail was denied.
- 4<sup>th</sup> Hearing : 3 August 2021. Bail Hearing. The bail was denied.
- 5<sup>th</sup> Hearing : 21 September 2021. Bail Hearing. The bail was denied.
- 6<sup>th</sup> Hearing : 23 September 2021. Bail Hearing. The bail was granted.

## Accused's Statement

Jhumon Das hails from Shalla, Sunamganj. But as his workplace was in Sylhet, he used to live there. He returned home to attend his sister's wedding. It was during this time that Mamunul Haque, an Islamic orator, visited the area and delivered a speech allegedly derogatory to Bangabandhu and the Hindu deity Shri Krishna. As a mark of his protest, Jhumon posted a status on Facebook on 16 March 2021, which caused suffering under the Digital Security Act.

Recalling the series of events leading to the predicament, he said, "I constructively criticized him for belittling the Father of the Nation and posted a status regarding this. I did not say anything to personally belittle him." His house was attacked on 17 March 2021, in response to his status, perceived as an insult to Islam in connection with the Mamunul Haque issue. The next day, he voluntarily surrendered and was detained by the police. Media reports show that 88 houses and 9



temples in his village were attacked after demonstrations calling for punitive measures against him. The government intervened, arresting many perpetrators, and ongoing assistance is being provided to those affected to help them return to normalcy.

The traumatic impact of that day's attack lingers, affecting not only his sense of security but also hindering his ability to work outside his home in Dhaka or Sylhet. Struggling to meet the financial demands of two legal cases, he faces challenges in maintaining a harmonious family life. Despite enduring a prolonged period of imprisonment, he remains wary of potential harm and expresses concerns whether he could remain in the country in future.

Aware of the constitutional guarantee of freedom of speech in the constitution framed in 1972, he questioned 'Why should advocating for Bangabandhu be considered a crime?' The incarceration, mental torture, and harassment he endured prompted him to ask what are the status of these aligned with the cause of independence.

### **Current Status of the Accused**

Jhumon Das is free on bail and his case is currently pending before the Sylhet Cyber Tribunal.





## CASE STUDY - 2.2

# JHUMON DAS APON

### Case Summary

Jhumon Das Apon (24) faced legal repercussions after posting a status on his Facebook account regarding the placement of a mosque donation box near a temple in Sirajganj, Bangladesh. Subsequently, on 30 August 2022, Sub-Inspector Sumanur Rahman of Shalla Police Station, Sunamganj, filed an FIR against him under Section 25(3)/28(3)/29(2)/31(3)/35(2) of the Digital Security Act, alleging him for undermining religious sentiment and also causing insult. Following 85 days of jail custody, Jhumon Das was granted bail on 13 November 2022, under the condition of refraining from making religiously prejudiced or inflammatory statements on social media. His case is currently awaiting adjudication in the Sylhet Cyber Tribunal. The defendant, expressing concern about his safety and the challenges to family life, questions the constitutional guarantee of freedom of speech in light of facing legal consequences for expressing his opinions.

### Case Details

Jhumon Das Apon posted a status on his Facebook account criticizing the placement of a mosque donation box near a temple in Sirajganj. This act led to a complaint filed by Sub-Inspector Sumanur Rahman of Shalla Police Station, Sunamganj, on 30 August 2022, citing insult to religion. The offenses alleged against him fall under Section 25(3)/28(3)/29(2)/31(3)/35(2) of the Digital Security Act. After undergoing 85 days of jail custody, Jhumon Das secured his release on bail on 13 November 2022. Presently, this particular case remains unresolved and is awaiting adjudication before the Sylhet Cyber Tribunal.

### Background

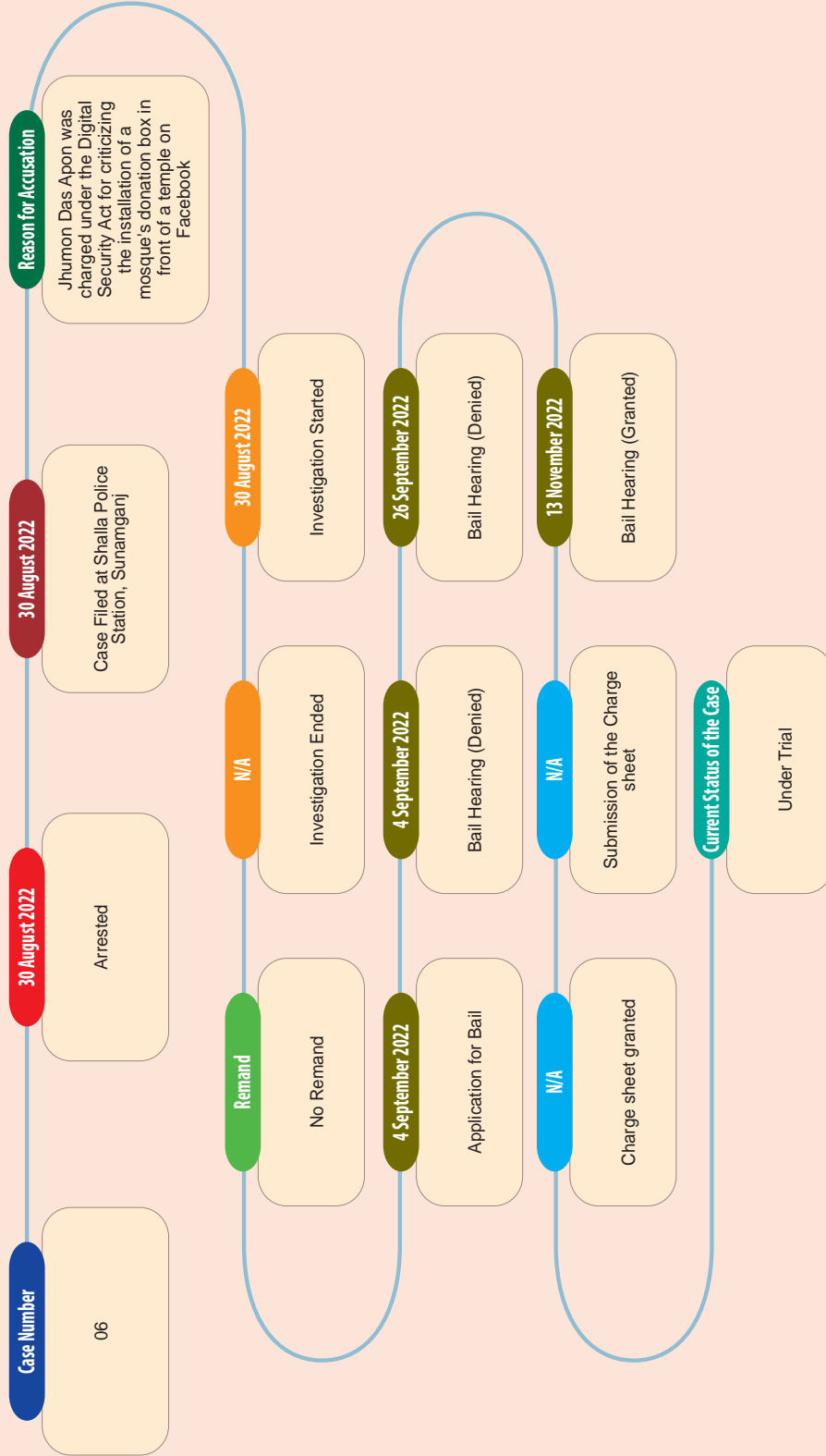
Jhumon Das Apon posted a status on Facebook on 28 August 2022 about temples and mosques. The post sparked communal tension in the area. In view of this, on 30 August 2022, he was taken to the Shalla Police Station from his house located in Noagaon Village for interrogation. According to the police, after 12 hours of interrogation, Jhumon admitted that he had posted the 'derogatory' post on Facebook. Therefore, on 30 August 2022, Sub-Inspector of Shalla Police Station of Sunamganj, Sumanur Rahman lodged a FIR against Jhumon for insulting religion and to prevent communal riots under Section 25(3)/28(3)/29(2)/31(3)/35(2) of Digital Security Act.

### Remand

No Remand.

CASE STUDY

JHUMON DAS APON (CASE 2)



## Bail

On 4 September 2022, when the bail application of Jhumon Das was filed in the lower court of Sunamganj, the concerned Magistrate rejected it. Later, a bail application was submitted to the District and Sessions Judge Court. The case was scheduled for a hearing on 19 September 2022 for the bail application, but the hearing was not held as the judge was on vacation. Later, on 26 September 2022, when the bail application was heard, Judge Zakia Parveen rejected his bail application. Subsequently, Jhumon Das submitted a bail application before the High Court. On 13 November 2022 a Division Bench of the High Court comprising of Mr. Justice Md. Salim and Mr. Justice Md. Riaz Uddin Khan granted interim bail for 6 months on the condition that he cannot further make any prejudicial or inflammatory comments on religious issues on social media. Barrister Tapas Kanti Baul appeared on behalf of Jhumon Das in the court..

## Charge sheet

The Charge sheet has been submitted by the Police.

## Chronology of Legal Proceedings

- 1<sup>st</sup> Hearing : 4 September 2022. Bail Hearing. The bail was denied.
- 2<sup>nd</sup> Hearing : 26 September 2022. Bail Hearing. The bail was denied.
- 3<sup>rd</sup> Hearing : 13 November 2022. Bail Hearing. The bail was granted.

## Accused's Statement

Jhumon Das Apon posted a status on his Facebook account critical to the placement of a mosque donation box near a temple in Sirajganj. People of his village were disappointed for posting such a status on Facebook. As a result, perceiving the status as an insult to Islam his house was attacked in response to his status, Police came to his house and arrested him. After being interrogated for 12 hours, police filed a charge against him on 30 August 2022.

Apart from the fear of security, he is struggling to meet the financial demands of two legal cases, he faces challenges in maintaining a harmonious family life. Despite having endured a prolonged period of imprisonment, he remains wary of potential harm and expresses doubt about the feasibility of living as a citizen in an independent country.

Aware of the constitutional guarantee of freedom of speech since 1972, he questions the paradox of facing legal repercussions for advocating Bangabandhu. He said, "I know that there is freedom of speech as per the 1972 constitution. In exercising freedom of speech, the administration is suing me for speaking for expressing my opinion."

## Current Status of the Accused

Jhumon Das currently is free on bail and his case is currently pending for trial before the Sylhet Cyber Tribunal.

## CASE STUDY - 3

# LUTFUR RAHMAN SHAWON

### Case Summary

Journalist Lutfur Rahman Shawon (31) was alleged for posting on Facebook via his personal ID and Facebook page to defame the Prime Minister of Bangladesh and the High Court in August 2021. He was arrested on 25 December 2021. After two days of arrest, police prayed for remand to interrogate him but it was denied, and the concerned Magistrate sent him to jail. The charge sheet of the case including a forensic report submitted to the court in 2022 stated that the Informant of the case Mahbubul Alam, Joint Convenor of the Student League (Student wing of the incumbent ruling party) brought allegations against Shawon for posting two statuses on Facebook, where one of them was posted in 2015 and another in 2017 which was clearly before the enactment of the Digital Security Act 2018. After spending almost 10 months and five days in jail, in October 2022, Shawon was released from jail on bail. It appears that the informant, also a journalist by profession and a student leader of the ruling party, filed the case against Shawon using the DSA as a tool of harassment and to teach him a lesson as Shawon had been affiliated with the journalist group which supports an opposition political party. The case is still ongoing and the suffering of Shawon has been continuing since 2021 which knows no bounds.

### Case Details

On 25 December 2021, Lutfur Rahman Shawon was arrested on charges under the Digital Security Act (DSA). Shawon, who works as a correspondent for the "Daily Bijoyer Kantho" in Chhatok, Sunamganj was accused of defaming the Prime Minister of Bangladesh and the High Court on social media. The FIR had been lodged by one Mahbub Alam, Joint Convenor of the Student League of Chhatok Upazilla, Sunamganj, Sylhet. The case was filed on 20 August 2021.

According to FIR, the case against Shawon also includes charges of aiding and abetting the breakdown of the law and order situation through destroying communal harmony. He has been charged under Sections 25(1)(a)&(b)/25(2)/29(1)/31(2)/35(2) of the Digital Security Act 2018 for sharing posts on digital or electronic media.

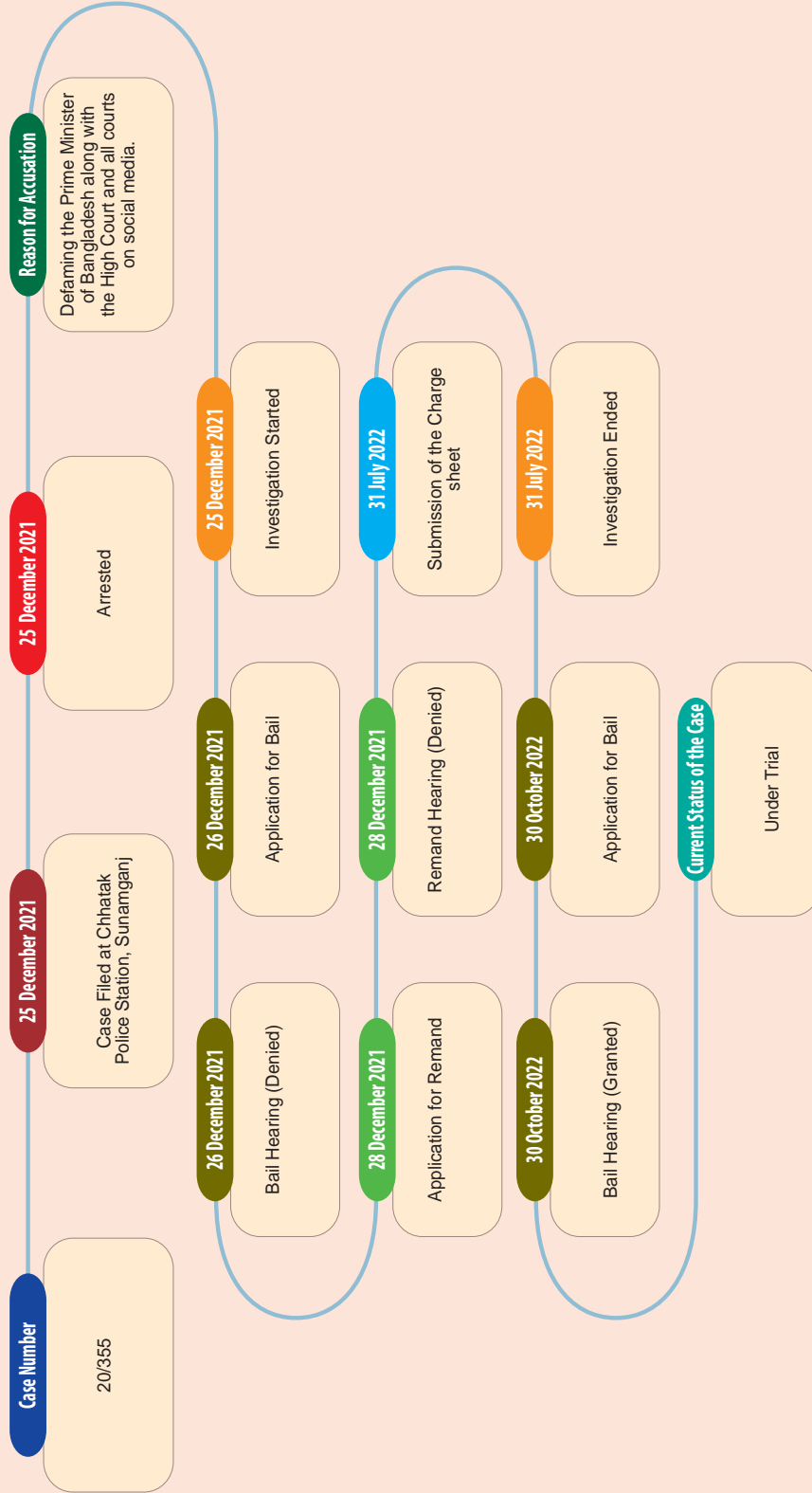
### Background

It was alleged that, on the social media platform Facebook, images of Prime Minister Sheikh Hasina and the High Court were distorted and shared by an account named H M Shawon. The individual was charged with the crime of aiding and abetting the breakdown of the law and order situation by destroying communal harmony. Consequently, a case was filed by Mahbub Alam who was also a student leader of the ruling party. Following the case, Nazmul Hasan Sheikh, Sub Inspector of Police, arrested Shawon from his home at midnight on 25 December 2021.

According to the FIR, the Informant, Mahbub Alam (25) reported that he saw a Facebook post with a disturbing caption that read, "All the courts are Hasina's petticoat." The post also contained

CASE STUDY

LUTFUR RAHMAN SHAWON



a distorted image of the Prime Minister and High Court. In addition, he came across another post with the caption, "Make a bamboo stick and wash the Bakshalish." Both of these posts were shared by an individual with a Facebook ID namely 'H M Shawon', who is the accused in this case.

It was alleged that Shawon created a Facebook page and group with the intention of spreading rumors, misinformation, false information, and propaganda through social media. His actions were aimed at tarnishing the image of the state and government, as well as that of the Bangladesh Awami League and the student league. Shawon was also allegedly responsible for spreading distorted images, which further damaged the reputation of these organizations.

## Remand

Two days after the arrest, the police prayed for remand to the court, while Shawon's lawyer applied for bail. However, neither of them was granted, and he was sent back to jail on 28 December 2021.

## Bail

On the morning of 26 December 2021, around 7:30 am, Shawon was taken to the magistrate court handcuffed by four police officers. His family had hired Pankaj Kumar as his lawyer, who prayed for his bail before the Magistrate Court of Sunamganj. However, the court denied his bail and sent him to jail on the same day. Along with nine other accused of various other cases, Shawon was taken to Sunamganj jail in a police van, where they were all handcuffed and roped around the waist.

Shawon's lawyer filed applications for bail before the magistrate court three times. All the applications were rejected. Thereafter they initiated to take the bail matter before the High Court. During the pendency of hearings before the High Court, the police submitted the charge sheet and transferred the case to the Sylhet Cyber Tribunal. At this point, Shawon had to appoint a new lawyer to represent him. His new lawyer, Adv. Shahidujjaman filed a bail application twice before the Cyber Tribunal, and Shawon was finally granted bail on 30 October 2022, in the second attempt.

## Charge sheet

The police submitted the charge sheet on 31 July 2022. After the submission of the Charge Sheet, the case was transferred to the Sylhet Cyber Tribunal while Shawon was still in jail. According to the charge sheet, on 20 August 2021, around 4 PM, the informant of the case Mahbub Alam saw posts from the Facebook ID named H M Shawon, captioned as "All the courts are Hasina's petticoat." The post also contained a distorted picture of the Prime Minister and High Court, and another post read, "Make a bamboo stick and wash the Bakshalish". The charge sheet also alleged that Shawon had been operating a Facebook page and group to spread rumors, misinformation, false information, and propaganda through social media. This was done to tarnish the image of the state and government, Bangladesh Awami League, and the student league by spreading distorted images. Mahbub Alam filed the case against Shawon under Sections 25(1)(a)&(b)/25(2)/29(1)/ 31(2)/35(2) of the Digital Security Act 2018.

During the investigation, the officer visited the location, seized the suspect's mobile device, and interviewed witnesses. After that, the officer sent the device for forensic examination. The forensic report attached to the charge sheet clearly stated that there is no proof that the accused Shawon shared the alleged posts using the alleged ID. The most highlighted part of the report was those posts that were given on 27 January 2015 and 22 August 2017 when DSA didn't even exist. Additionally, no clear evidence was found in the investigation that the accused Shawon created the Facebook group to spread rumors. However, according to the Informants' allegation, Shawon did share the posts, which caused chaos in the community and became a reason for deteriorating the law and order situation in the area. Following the FIR and without considering the forensic report, the investigating officer found the allegation against Shawon to be initially true and prayed for taking appropriate action against Shawon accordingly.

### **Chronology of Legal Proceedings**

- 1<sup>st</sup> Hearing : 26 December, 2021. Bail Hearing. The bail was denied and Shawon was sent to jail.
- 2<sup>nd</sup> Hearing : 28 December, 2021. Remand Hearing. The remand was denied and Shawon was sent to jail.
- 3<sup>rd</sup> Hearing : 30 October, 2022. Bail Hearing. The bail was granted.

### **Accused's Statement**

On 25 December 2021, about five to six police officers arrived at Shawon's residence while he was about to sleep. Shawon was unaware of any complaint against him and had just returned home from his in-law's house around 12:40 am. Due to his profession, he was familiar with police officers and willingly allowed them to enter his house. However, Investigation Officer Nazmul Hasan Sheikh, who was recently transferred to Chhatok and unknown to Shawon showed a digital copy of the complaint on his phone and wished to enter his bedroom to check his mobile phone. Shawon refused to let them enter the bedroom as his wife was still inside. Instead, he handed over his mobile phone for checking.

Shawon stated that, "After checking my phone, the officer made a call and discussed my phone check with someone else. Following the phone call, the officer seized my second mobile phone and asked me to go to the police station to speak with the Circle Officer. That moment I assumed they were arresting me without warrant and asked my father to inform the press club president and other acquaintances about the incident." Shawon's father was anxious, but the police officers assured him and his family members not to worry.

He was taken to the local police station in a police car. After arriving at the station, all the officers left the station leaving him alone with the Duty Officer. His family members and other acquaintances arrived at the police station about half an hour later. They persistently requested to meet with the acting Officer-in-Charge (OC) of Chhatok police station. Eventually, the OC appeared and showed them the First Information Report (FIR) which was filed on the same day based on a complaint filed almost three months ago. It is claimed by Shawon that, although the lodging date and time on the FIR was shown a previous date, it was actually filed after his arrest. The officers interrogated him about posts on social media which were found to be fake and edited. He complied with the officers by giving them his mobile phone password. After his family and

acquaintances left the police station, the officers held him in lock up, and Shawon had to spend a cold winter night there without warm clothes.

Around 7:30 am, on 26 December 2021 morning, four police officers took him to the magistrate court handcuffed and his family appointed a lawyer, Pankaj Kumar who prayed for his bail in the Magistrate Court, Sunamganj. The court didn't grant bail and sent him to the Jail. Shawon said, "I was taken to the Jail in Sunamganj with nine other accused persons of other cases being handcuffed and roped around the waist on a police van. After reaching there, they kept me in quarantine for 14 days before taking me to the cell with other accused persons."

After he spent two days in jail, on 28 December 2021, the police prayed for remand to the court while his lawyer prayed for bail on the hearing, but neither of them was granted and he was sent to jail. Then the lawyer applied for bail in the magistrate court three times in total and after that applied to take the case to the High Court. During the pendency of the hearing before the High Court, police submitted the charge sheet on 31 July 2022. Thereafter the case was transferred to the Cyber Tribunal while he was still in jail. His newly appointed lawyer in Cyber Tribunal, Sylhet Adv. Shahidujjaman applied for bail twice, and the court granted bail on the third time on 30 October 2022.

He spent a total of 10 months and 5 days in jail. Shawon referred to the forensic report and claimed that, "The posts on Facebook were fake, edited, and were dated in 2015 and 2017 from a time far in the past before the DSA was enacted. According to the Forensic Report, no evidence was found in my phone or Facebook account of that defaming post that was included in the police investigation report." As Shawon was involved in politics during student life, he thought he was targeted due to previous enmity. The Informant of the case, Mahbub Alam who is also a journalist of the Daily Kaler Kantho and a member of a different press club in Chhatok used his political identity (Joint Convenor of the Student League) in this case just to have an influence over the police. The case is still ongoing, Shawon claims that he and his family have already been in debt of over 8 lac Taka in defending the false allegation.

### **Current Status of the Accused**

The case is still ongoing before the Cyber Tribunal Sylhet and he has to attend the hearing on a regular basis.



## CASE STUDY - 4.1

# KHADIJATUL KUBRA

### Case Summary

The case of a university student, Khadijatul Kubra is one of the most discussed cases among the cases filed under the Digital Security Act. Two cases have been filed against her. The first case was filed at the New Market Police station at Dhaka and the charge sheet of that case showed Khadija's age as 19 years whereas she was only 17 years old at the time of her arrest. Khadija was arrested on 27 August 2022 and she was in Jail Custody for 15 months only for moderating a webinar on social media.

The Charge sheet submitted against her alleging that she had spread fake information and propaganda along with an attempt to incite people to overthrow the legitimate government. Her academic life was halted due to the imprisonment and she claims that she had to stay in a condemned cell for a certain time with death row inmates. She was deprived of treatment though she was a patient of kidney stones.

### Case Details

On 27 August 2022, Saturday at 9:30 pm, Khadijatul Kubra, a student of the 2019-20 academic year of the Department of Political Science of Jagannath University (JnU), was arrested from her residence in Mirpur by the police of Newmarket Police Station, Dhaka. According to the FIR, on 11 October 2020, Sub-Inspector Khairul Islam of New Market Police Station filed a case under Sections 25/29/31/35 of the Digital Security Act 2018 accusing Khadija and one Delwar (another accused of this case) of tarnishing the country's image by spreading anti-government statements online. She was 17 years old when the case was filed under the DSA in 2020 where she was falsely portrayed as an adult. Another accused Major Delwar of this case is still absconding.

### Background

According to the Complaint Letter, a video titled 'Humanity for Bangladesh' moderated by Khadijatul Kubra in a social media talk, where one retired army Major namely Delwar Hossain attended as a participant. It is alleged that, in his presentation, Delwar provided various instructions to overthrow the legitimate democratic government of Bangladesh. The FIR also added that they were engaged in efforts to confuse audiences about the existing stable situation of the country by uploading these videos on their YouTube channels and personal Facebook pages. They have tried to incite the common people of the country against the present democratic government and involve them in anti-government activities by spreading false informative talks on YouTube and Facebook. Therefore, the accused ones have committed offenses under Sections 25/29/31/35 of the Digital Security Act 2018.



## Remand

No remand.

## Bail

Advocate Jyotirmoy Barua filed an application for bail on behalf of Khadija in this case. According to Mr. Barua and court documents, Khadija's bail plea was rejected twice by the Judicial court. Later she applied for bail in the High Court and the High Court Bench comprising of Mr. Justice Mustafa Zaman Islam and Mr. Justice Md. Aminul Islam granted her bail on 16 February 2023. Thereafter the prosecution (State) filed a petition against that bail order. The Chamber Judge of the Appellate Division stayed the order of bail passed by the High Court and sent the matter to the full bench of the Appellate Division for hearing. In the meanwhile, Khadija filed an application for vacating the order of stay passed by the Chamber Judge. Both the petitions filed by the State and by Khadija were heard together before the Appellate Division on 10 July 2023. The Appellate Division adjourned (Stand Over) the hearing of the applications for four months from the date.

On 16 November 2023, 6 Judges' Bench of the Appellate Division headed by Chief Justice Obaidul Hassan dismissed petitions filed by the state against the High Court's bail order and upheld the bail granted by the High Court. Assistant Attorney General M Saiful Alam presented the petition on behalf of the state and Advocate B M Elias submitted it on behalf of Khadija.

The bail order was reached at the Central Jail on 19 November 2023. Khadija was not released immediately, rather the jail authority delayed her release for no specific reasons. Her family members waited the whole day for her release. On 20 November 2023, Khadija was released from Kashimpur Central Women's Jail.

The Appellate Division directed the prosecution on 20 November 2023, seeking explanation why Khadijatul Kubra was not released quickly after availing the bail order. Khadija's lawyer Barrister Jyotirmoy Barua brought the matter to the attention of the Appellate Division headed by Chief Justice Obaidul Hassan and the court passed such order.

## Charge sheet

DB Police Inspector Mazharul Islam was the Investigation Officer (IO) of the two cases and the statements of the two cases are also similar. On 28 April 2022, the investigation of the case of New Market Police Station concluded, and on 16 May 2022, the investigating officer submitted the charge sheet. In the charge sheet, moderator Khadija and participant Major Delwar of the social media talk were alleged to have tried to create confusion about the existing stable situation of the country by uploading videos on their YouTube channels and personal Facebook pages. The Charge Sheet also alleges that they tried to incite the common people of the country against the present democratic government by spreading their false talk show on YouTube, and Facebook and involving them in anti-government activities. Besides, they tried to create an unstable environment in the country by creating anti-government attitudes by spreading provocative statements. At the same time, they damaged the image of Bangladesh in the outside world. They had been carrying out fabricated, false, defamatory propaganda against the country's prime minister, various government agencies, and important state officials with the intention of

overthrowing the legitimate government of Bangladesh through conspiracy. They were trying to create enmity and hatred among different communities through such conspiracies and were carrying out activities to destroy communal harmony. Therefore, the accused were alleged for committing offenses under Sections 25/29/31/35 of the Digital Security Act, 2018. The Cyber Tribunal accepted the charge sheet of the case on 16 May 2022.

## Chronology of Legal Proceedings

- 1<sup>st</sup> Hearing : 28 August 2022. Bail Hearing. The bail was denied and Khadija was sent to jail.
- 2<sup>nd</sup> Hearing : 15 September 2022. Application for Bail Hearing. The bail was denied.
- 3<sup>rd</sup> Hearing : 16 February 2023. Application for Bail Hearing. The High Court granted the bail and the Chamber Judge upheld the High Court's order.
- 4<sup>th</sup> Hearing : 10 July 2023. Application for Bail Hearing. The Appeal Division adjourned (stand over) the hearing for four months.
- 5<sup>th</sup> Hearing : 16 November 2023. Application for Bail Hearing. The bail was granted.

## Accused's Statement

As Khadija was in jail when this report was written, it was not possible to take her statement. Khadija's sister Monira shared her experiences and said in her statement "We were completely shocked to hear the news. None of us knew that there were cases filed against her. The police came to our house in Mirpur at 9:30 pm and took her away". Monira also added that "Khadija was 17 years old when the case was filed. In that case, the matter of the cases should have been informed to her parents. But the police did not do that." She further stated that "Khadija was diagnosed with kidney stones and in that condition, she is spending days in jail without any treatment. She was in jail custody at the Kashimpur Central Women's Jail for more than one year. From 22 March to 27 March 2023, she was kept in a condemned cell reserved for death row inmates, for which her family members were worried about that".

The Senior Jail Super claimed that Khadija was kept in that cell for her bad behavior and that it was not a condemned cell but rather a punishment cell. According to Khadija's sister Monira, Khadija cannot misbehave with anyone. She also added that she did not have any behavioral issues with anyone in jail, but suddenly there were rumors of her misbehaving which is fictitious. "My Sister who is still young has been in prison for eight months, her mental state should be understood", she further added in her statement. Monira declined to be interviewed for a second time being afraid that her contacts with and statements in media and other entities would cause a delay in Khadija's release.

On 19 November 2023, Monira alleged while talking to a media that the jail authority was delaying Khadija's release deliberately. When she asked about the reason for the delay, the authority explained that Khadija's cases need more investigation to release her from jail based on the court order and they were waiting for clearance from other agencies and the police.

After getting released, Khadija claimed in media that she had to spend 15 months in jail without doing any crime. She declined to talk citing her current state of mind due to the long ordeal.

In the matter of the delay in the release, Khadija's lawyer Barrister Jyotirmoy Barua said, "Khadija should have been released as soon as the bail order reached the jail. She has been wrongfully detained for a long time. It is a clear contempt of the court."

### **Current Status of the Accused**

After one year and three months, on 20 November 2023, at 9 AM Khadija was released from Kashimpur Central Women's Jail. She was unable to appear for two semesters of exams as she was in jail for the past 15 months. As of writing this report, Khadija was attending her semester final examination after getting released from jail. Her case is now under trial.

## CASE STUDY - 4.2

# KHADIJATUL KUBRA

### Case Summary

The case of Khadijatul Kubra is one of the most discussed cases of this time. Two cases have been filed against her within a week. One case was filed at the New Market Police Station of Dhaka, while the second case was filed at Kalabagan Police Station, Dhaka accusing her of tarnishing the country's image by spreading anti-government statements on an online platform. The charge sheet of this (the second) case showed Khadija as an adult of 19 years old whereas she was only 17 years old at that time. She serves one year and three months in jail as a pre trial detainee for moderating a webinar and engaged in Q&A with a participant.

The allegation and statement of the submitted charge sheet against her was almost similar to the first case filed against her. Her academic life was almost halted due to the imprisonment and she had to stay in a condemned cell for a certain time with death row inmates. She was deprived of treatment though she was a patient of kidney stones and had to do labor work where she was assigned to do writing. Khadija went to attend an exam after getting released from jail to continue her studies..

### Case Details

On 27 August 2022, Saturday at 9:30 pm, Khadijatul Kubra, a student of the 2019-20 academic year of the Department of Political Science of Jagannath University (JnU), was arrested from her residence in Mirpur by police of Newmarket Police Station, Dhaka. Khadija was shown arrested on 17 September 2022, in connection with a case filed under DSA along with one Major Delwar. According to FIR, on October 19, 2020, Sub-Inspector named Arif Hossain of Kalabagan Police Station, Dhaka filed a case under Section 25(2)/29(2)/31(2)/35(2) of the Digital Security Act 2018 at Kalabagan police station, Dhaka accusing Khadija and Major Delwar for tarnishing the country's image by spreading anti-government statements online. The allegations and descriptions of the two cases filed within a week are almost identical.

### Background

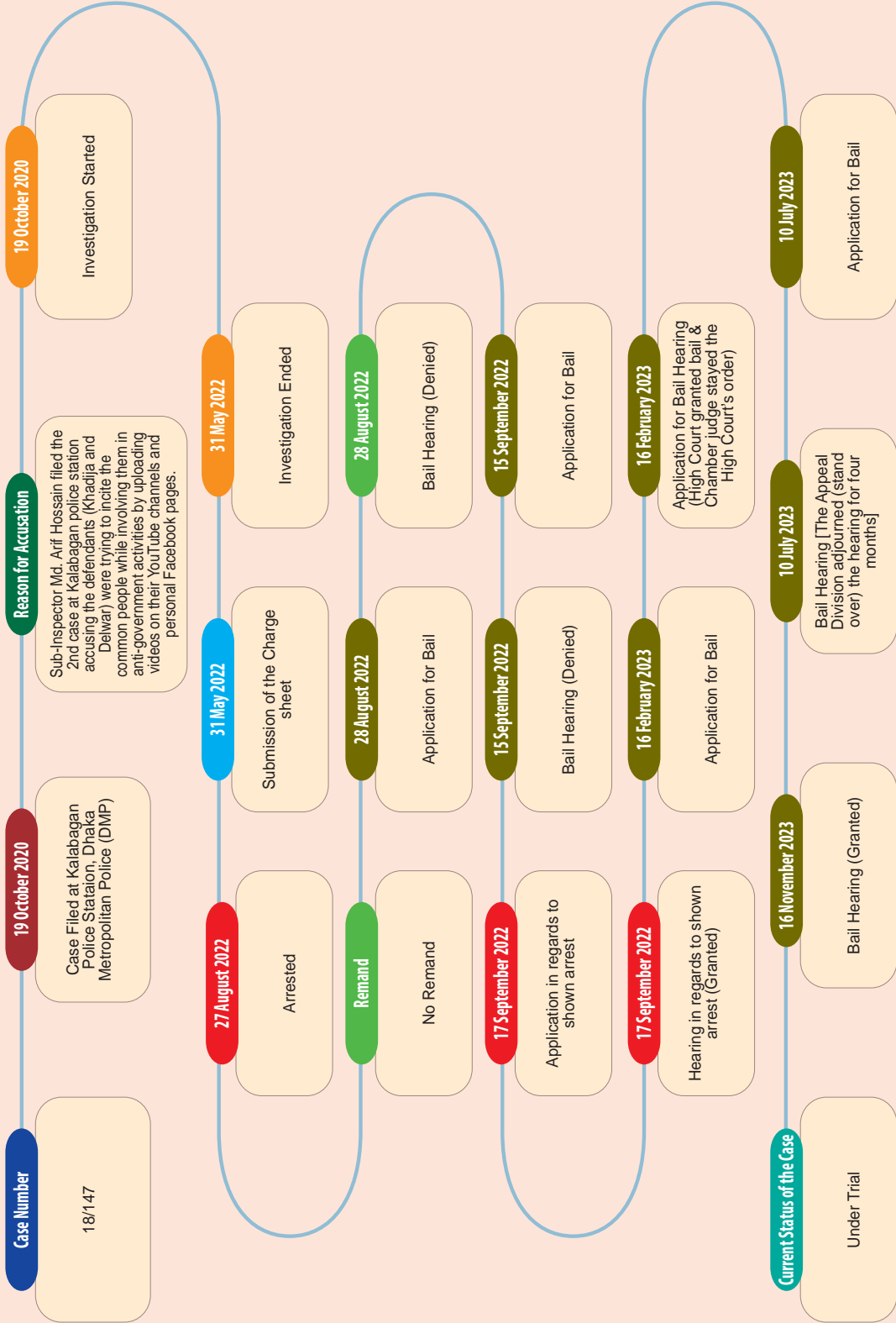
The FIR of this case shows that, Khadijatul Kubra and retired Major Delwar Hossain were accused of the offense of aiding the dissemination of offensive and defamatory information via digital media to cause deterioration of law and order of the country. It is alleged that they have tried to create an unstable environment in the country by creating anti-government sentiments by spreading inflammatory statements on YouTube and Facebook. Therefore, they are accused of committing offenses under Sections 25(2)/29(2)/31(2)/35(2) of the Digital Security Act, 2018.

### Remand

No remand.

CASE STUDY

**KHADIJATUL KUBRA (CASE 2)**



## Bail

The bail hearing of the two cases was held simultaneously. Advocate BM Elias Kochi filed a bail petition on behalf of Khadija in the Kalabagan's case. According to Khadija's lawyer and court documents, Khadija's bail plea was rejected twice by the Judicial Court. Later, she applied for bail in the High Court and the High Court Bench consisting of Mr. Justice Mustafa Zaman Islam and Mr. Justice Md. Aminul Islam granted her bail on 16 February 2023. Thereafter, the prosecution (State) side filed a petition against that bail order and the Chamber Judge of the Appellate Division stayed the High Court's bail order. After that, the petition of the prosecution was sent for hearing before the regular bench of the Appellate Division. In the meanwhile, Khadija filed an application to vacate the order of stay passed by the Chamber Court. Both the petition of the prosecution and the application filed on behalf of Khadija was heard before the Appellate Division on 10 July 2023. The Appellate Division adjourned (Stand Over) the hearing of both the application and petition.

On 16 November 2023, 6 Judges' Bench of the Appellate Division headed by Chief Justice Obaidul Hassan dismissed petitions filed by the state against the High Court's bail order and upheld the bail granted by the High Court. Assistant Attorney General M Saiful Alam presented the petition on behalf of the state and Advocate B M Elias submitted it on behalf of Khadija.

The bail order was reached at the Central Jail on 19 November 2023. Khadija was not released immediately, rather the jail authority delayed for no specific reasons. Her family members waited the whole day for her release. On 20 November 2023, Khadija was released from Kashimpur Central Women's Jail.

## Charge sheet

On 31 May 2022, the investigation of the case of Kalabagan Police Station ended and the Investigation Officer DB Police Inspector Mazharul Islam submitted the charge sheet no 111. Khadija and Major Delwar were alleged in the charge sheet. The Charge Sheet alleges that both Khadija and Delwar were trying to confuse the audiences about the existing stable situation of the country by uploading videos on their YouTube channels and personal Facebook pages. The Charge Sheet also alleges that they tried to incite the common people of the country against the present democratic government by spreading their false informative talk on YouTube, and Facebook and involving them in anti-government activities. Besides, they tried to create an unstable environment in the country by creating anti-government attitudes by spreading provocative statements. At the same time, they damaged the image of Bangladesh in the outside world by carrying out fabricated, false, and defamatory propaganda against the country's prime minister, various government agencies, and important state officials with the intention of overthrowing the legitimate government of Bangladesh through conspiracy. They were trying to create enmity and hatred among different communities through such conspiracies and were carrying out activities to destroy communal harmony. Khadijatul Kubra and Major Delwar (retd) with the help of their relatives and friends are continuing to spread such false propaganda online. Therefore, they are liable to be charged for committing offenses under Sections 25(2)/29(2)/31(2)/35(2) of the Digital Security Act, 2018. On 7 July 2022, the Cyber Tribunal accepted the charge sheet of the case.



## Chronology of Legal Proceedings

- 1<sup>st</sup> Hearing : 28 August 2022. The bail was denied and Khadija was sent to jail.
- 2<sup>nd</sup> Hearing : 15 September 2022. Application for Bail Hearing. The bail was denied.
- 3<sup>rd</sup> Hearing : 17 September 2022. Application in regards to shown arrest. The application was granted.
- 4<sup>th</sup> Hearing : 16 February 2023. Application for Bail Hearing. The High Court granted the bail and the Chamber Judge stayed the High Court's order.
- 5<sup>th</sup> Hearing : 10 July 2023. Application for Bail Hearing. The Appeal Division adjourned (stand over) the hearing for four months.
- 6<sup>th</sup> Hearing : 16 November 2023. Bail Hearing. The bail was granted by the Appellate Division.

## Accused's Statement

As Khadija was in jail when the report was written, it was not possible to take her statement. Khadija's sister Monira shared her experiences and said in her statement "We were completely shocked to hear the news. None of us knew that there were cases filed against her. The police came to our house in Mirpur at 9:30 pm and took her away". Monira also added that "Khadija was 17 years old when the case was filed. In that case, the matter of the cases should have been informed to her parents. But the police did not do that." She further stated that "Khadija was diagnosed with kidney stones and in that condition, she is spending days in jail without any treatment. She was in jail custody at the Kashimpur Central Women's Jail for more than one year. From 22 March to 27 March 2023, she was kept in a condemned cell reserved for death row inmates, for which her family members were worried about that."

The Senior Jail Super claimed that Khadija was kept in that cell for her bad behavior and that it was not a condemned cell but rather a punishment cell. According to Khadija's sister Monira, Khadija cannot misbehave with anyone. She also added that she did not have any behavioral issues with anyone in jail, but now suddenly there are rumors of her misbehaving which is fictitious. "My Sister who is still young has been in prison for eight months, her mental state should be understood", she further added in her statement. Monira declined to be interviewed for a second time being afraid that her contacts with and statements in media and other entities would cause a delay of Khadija's release.

On 19 November 2023, Monira alleged while talking to a media that jail authority was delaying Khadija's release deliberately. When she asked about the reason for the delay, the authority explained that Khadija's cases need more investigation to release her from jail based on the court order and they were waiting for clearance from other agencies and the police.

After getting released, Khadija claimed in media that she had to spend 15 months in jail without doing any crime. She declined to talk citing her current state of mind due to the long ordeal.

## Current Status of the Accused

After one year and three months, on 20 November 2023, at 9 am Khadija was released from Kashimpur Central Women's Jail. She was unable to appear for two semesters of exams as she was in jail for the past 15 months. As of writing this report, Khadija was attending her semester final examination after getting released from jail. Her case is now under trial.

## CASE STUDY - 5

# MAMUNUR RASHID NOMANI

### Case Summary

Mamunur Rashid Nomani, an editor of an online news portal based in Barisal became an accused under the Digital Security Act 2018 on 13 September 2020. He was beaten brutally before he was handed over to the police. Nomani was alleged to have secretly collecting photographs on mobile phones without permission. He spent 16 days in jail and thereafter got interim bail. His case is still ongoing and he has to attend the court on a regular basis. The Charge Sheet of this case was submitted in July 2022 which was after 2 (two) years of filing the case.

### Case Details

According to the FIR, the Mayor of Barisal City Corporation, Serniabat Sadiq Abdullah, along with his family members and other party leaders, were sitting on the bank of the river near Tirish Godown Boddho Bhumi after observing of Sagardi Canal digging work in Ward No. 12 of Kotwali Model Police Station. It is alleged that, meanwhile, Mamunur Rashid Nomani (41), with the help of other accused, took pictures of the mayor secretly with his mobile phone for dishonest purposes. When Councilor Manna and other leaders noticed the matter and asked Nomani and others why they took the pictures, they denied the allegation. When they searched his mobile phone, the people got agitated. Then, the excited crowd assaulted them. Thereafter, they called the police. The police reached the spot and took 3 of them into custody.

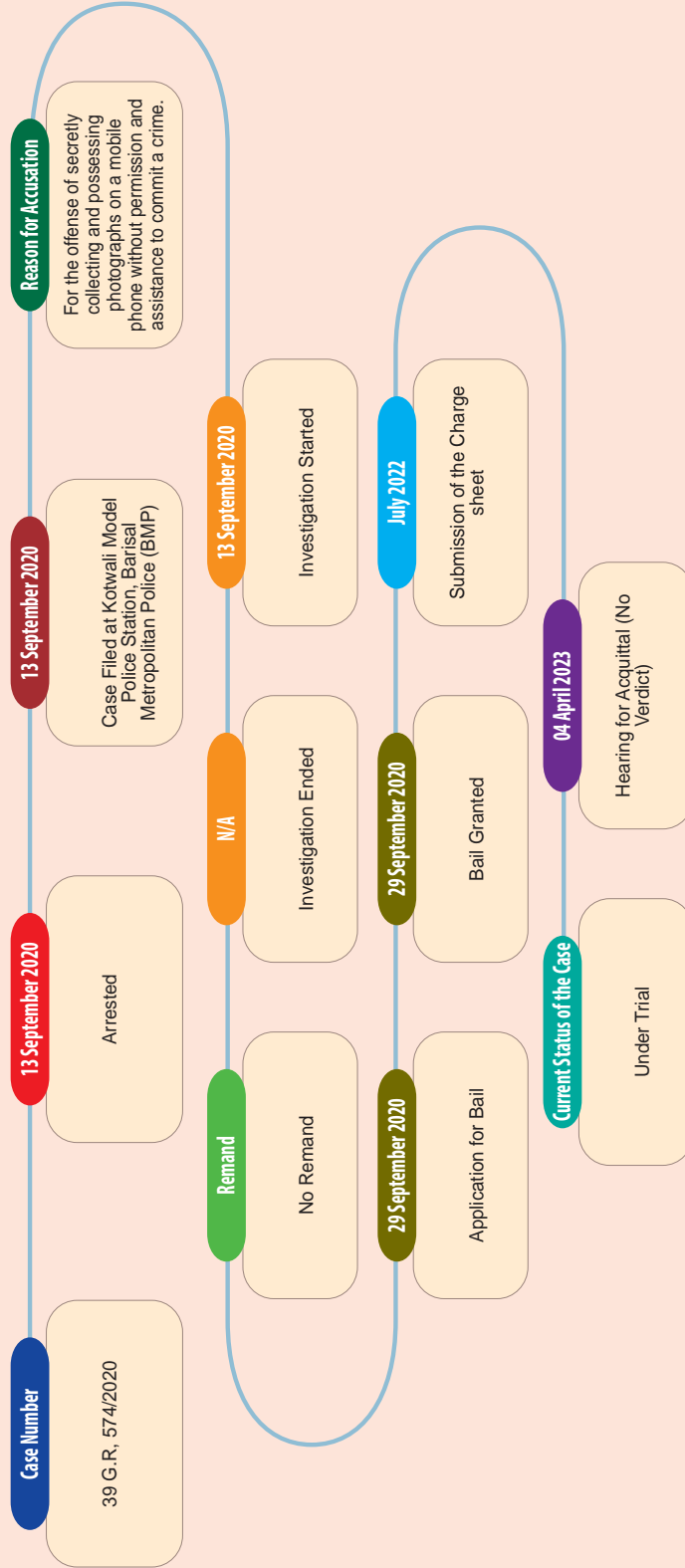
### Background

According to FIR, Councilor Sheikh Saeed Ahmed Manna of Ward No. 21 of Barisal City Corporation lodged a case at Kotwali Model Police Station on 13 September 2020 against Nomani, Kamrul Mridha, and Labu Gazi for the offense of secretly collecting and possessing photographs in the mobile phone without permission and thereby they had committed offenses under Sections 26(2) and 32(2) of the Digital Security Act 2018.

It is claimed by the accused and also found from other sources that, on 13 September 2020, at approximately 10:30 pm. Nomani accompanied his friend Kamrul and driver Gazi to the bank of Kirtonkhola river and saw Mayor Sadiq Abdullah who was allegedly intoxicated near the bank of the river along with others. Nomani claims that the mayor began abusing them for no reason. The mayor was accompanied by a group of party leaders who took all mobile phones that belonged to Nomani and his friends and started accusing them of taking pictures and videos of the mayor and his family members. Then, the mayor instructed his party members to assault them physically. After receiving the Mayor's order, they immediately threw Nomani and his friends into the river and physically assaulted them. They struck rods on their heads. Three fingers of Nomani were broken. After severe beatings, the mayor handed them over to the police, alleging that they had engaged in acts of sexual harassment towards both his daughter and wife and took photos and videos of them.

CASE STUDY

MAMUNUR RASHID NOMANI



## Remand

No remand.

## Bail

Nomani stated that he and other accuseds were in prison for 14 days; the first seven days were in the quarantine ward, and the next seven days were in the regular ward. They were beaten before being arrested. Nomani had three broken fingers, but he was not taken to hospital. They were not given any treatment. On 22 September 2020, they were taken to the Sher-E-Bangla Medical after repeated request and were sent to jail on 23 September the next day without providing proper treatment. After 16 days, they got interim bail on 29 September 2020 from the District Judge Court with certain conditions.

## Charge sheet

Police submitted a charge sheet in July 2022, but Nomani was not informed. He learned about the charges through a clerk of the Barisal Cyber Tribunal when he applied for an extension of interim bail in late December 2022. In a forensic report dated 25 January 2021, the Criminal Investigation Department (CID) stated it could not recover whether Nomani's phone was used to film the mayor.

## Chronology of Legal Proceedings

1<sup>st</sup> Hearing : 29 September 2020. Interim Bail Hearing. The bail was granted.

2<sup>nd</sup> Hearing : 4 April 2023.

## Accused's Statement

On the evening of 12 September 2020, Mamunur Rashid Nomani and two of his friends met the mayor at the bank of Kirtonkhola River in the evening. At that time, Mayor Abdullah complained that Nomani as an editor published a report in "Barisal Khabar" where he reported against the mayor alleging failure of flood control in Barisal City Corporation. Nomani also recollected his memory stating, "The Mayor got angry and slapped me. Nine other people were present with the mayor at that time, among them were Barisal City Corporation employees, Awami League, and Student League leaders and activists. After that, the mayor ordered his associates to seize my phones and also from my friends forcefully." While sharing the experience, Nomani said quote, unquote "The Mayor's people dipped me into the Kirtonkhola river for about seven minutes. Then, Mayor and Ward Councilor Syed Ahmed Mannan started beating me severely with an iron rod while four others held me tight." During that time, Nomani lost consciousness, broke three fingers, and suffered injuries all over his body, especially his head and chest were severely injured. Nomani believes Mayor Abdullah's anger was directed towards him because of his news report regarding the failure of flood control. "I regained consciousness when I was taken to the police station, and the police applied to the Barisal Magistrate's Court to send me directly to jail without appearing before the court so that no evidence of physical abuse could be found in the court." Nomani added in his statement.

## Current Status of the Accused

Nomani stated that he has to attend a monthly hearing as he is not exempted from the case yet. In a news report of *Business Recorder* dated 24 March 2023 it is stated that the charge sheet was submitted in July 2022 without informing the journalist (Nomani). The case is still ongoing and under trial.



## CASE STUDY - 6

# MD RUHUL AMIN

### Case Summary

Ruhul Amin, aged 35, a social worker and the coordinator of Workers-Farmers-Students-People Oikya Parishad in Khulna faced legal consequences following his Facebook posts criticizing the government and characterizing the death of Mushtaq Ahmed as a "state murder." Inspector Md. Nahid Hasan Mridha of Khulna Metropolitan Detective Branch, Khulna filed a case (Number: 21/54) against him under the Digital Security Act on 27 February 2021. Despite a two-day remand granted by the Khulna Metropolitan Magistrate Court and subsequent denial of bail requests, Ruhul Amin was eventually released on bail on 19 April 2021. Inspector Md. Syed Mosharef Hossain submitted a charge sheet (Number: 106) on 25 April 2021, outlining Amin's alleged anti-government posts aiming to incite enmity, and chaos, and disrupt law and order. The legal proceedings imposed financial hardships on Amin, impacting his business, etc. However, the High Court granted a stay on the operation of the proceeding of the case. Although Mr. Amin resides in Dhaka, he has to continue incurring significant costs in maintaining and monitoring the development of the case proceeding.

### Case Details

On 27 February 2021, Inspector Md. Nahid Hasan Mridha of Khulna Metropolitan Detective Branch filed a case against Ruhul Amin under Sections 25(2)/31(2) of the Digital Security Act at Khalishpur Police Station, Khulna. The allegations brought against him were spreading misinformation, defaming the state and government on social media, and attempting to disrupt public order. After several bail applications, he was released from jail on bail on 19 April 2021 after spending 1 month and 23 days in prison. Following Ruhul Amin's plea, the High Court granted a stay order on the operation of the proceeding of the case. Currently, all proceedings of the case are halted due to the stay order.

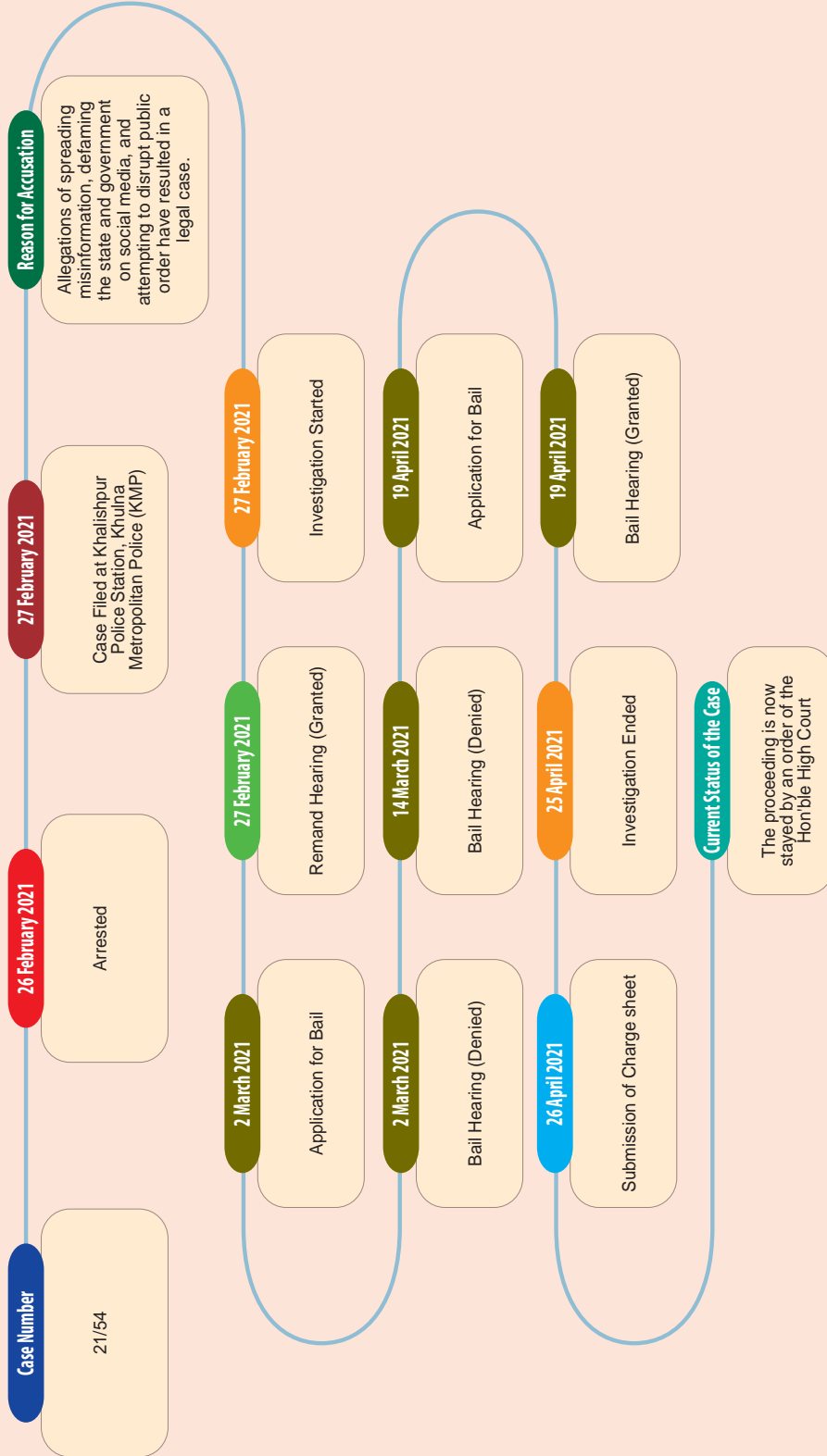
### Background

Ruhul Amin, the coordinator of Workers-Farmers-Students-People Oikya Parishad in Khulna, found himself entangled in controversy following the death of Mushtaq Ahmed, an accused of a Digital Security Act (DSA) case who died on 25 February 2021, in custody. A day after Mushtaq's death, on 26 February 2021, Amin expressed his displeasure and anger on Facebook, condemning the government and state, characterizing Mushtaq's death as a "state murder." He advocated for new forms of protest, urging followers to gather in front of the National Parliament building in Dhaka to demand repeal of the DSA.

Subsequently, on 27 February 2021, a protest rally was held at Shahbagh. It is alleged in the FIR that, in response to Mushtaq's imprisonment and subsequent death, Amin continued to post statements on Facebook, saying that he was ready to be arrested. Notably, he criticized the government's use of force, alleging that 'a dynastic kingdom' had been established, and expressed concerns that anyone who opposed the ruling family would face consequences.

CASE STUDY

MD RUHUL AMIN





Following these posts, a plain-clothed team from the Khulna Metropolitan Intelligence Branch and Khulna Metropolitan Police arrested Ruhul Amin and Niaz Murshid on 26 February 2021, during an online live program on labor rights and issues at a rented house in the Goalkhali area. Despite Niaz Murshid's release after interrogation, Ruhul Amin was detained for further questioning. Eventually, he was sent to jail based on a case filed by Inspector Nahid Hasan Mridha of the Metropolitan Intelligence Branch.

## Remand

On 27 February 2021, Inspector Md. Syed Mosharef Hossain, the designated investigator in the case, prayed for a remand of Ruhul Amin, who was apprehended under the Digital Security Act. Although the police prayed for a 5-day remand, the concerned Magistrate Sarwar Ahmed of the Khulna Metropolitan Magistrate Court granted a two-day remand. Following the two-day remand, when bail was sought for Ruhul Amin, the court denied the same and sent Ruhul Amin to jail.

## Bail

On 2 March 2021, Advocate Begum Akhter Jahan Ruku filed a bail application for Ruhul Amin in the Khulna Metropolitan Magistrate Court, which was rejected by the Magistrate Atikus Samad. Subsequently, a second bail application faced a similar outcome. However, on 19 April, 2021, Amin sought bail in the virtual court of Khulna Metropolitan Sessions Judge and the Judge Shahidul Islam of the the virtual court, granted bail to Ruhul Amin, requiring a surety bond of Taka 10,000 and placing him under the custody of his lawyer, Akhter Jahan Ruku. Consequently, Ruhul Amin was released from jail on bail on 19 April 2021, having spent 1 month and 23 days in Jail Custody.

## Charge sheet

Inspector Nahid Hasan Mridha of the Khulna Metropolitan Intelligence Branch initiated an investigation against Md. Ruhul Amin under the Digital Security Act. Subsequently, Inspector Md. Syed Mosharef Hossain after conducting an investigation submitted the charge sheet to the court on 25 April 2021. The charge sheet detailed that Ruhul Amin, through his Facebook account, had posted inflammatory and anti-government content, including calls for protests and criticism of the government's actions.

Amin's posts, such as "A state murder. Then an Assembly-Rally-Human Chain! How long? Come, let's do something new," and advocating for a procession in front of the National Parliament building to protest the death of writer Mushtaq, were highlighted in the charge sheet. The charges asserted that these social media activities aimed to disseminate misinformation, sow confusion, tarnish the state's image, and undermine the government's reputation. It was also alleged that the objective of such activity was to incite enmity, unrest, chaos, and disrupt law and order among the public, an offense under Section 25(2)/31(2) of the Digital Security Act. The charge sheet cited evidence from the case, a review of Amin's mobile phone, and a forensic report from the Criminal Investigation Department (CID) as substantiation of the accused's criminal actions. Consequently, Investigating Officer Md. Syed Mosharef Hossain formally submitted the charge sheet against Ruhul Amin in court under Sections 25(2) and 31(2) of the Digital Security Act.

## Chronology of Legal Proceeding

- 1<sup>st</sup> Hearing : 27 February 2021. Remand Hearing. The remand was granted.
- 2<sup>nd</sup> Hearing : 2 March 2021. Bail Hearing. The bail was denied.
- 3<sup>rd</sup> Hearing : 14 March 2021. Bail Hearing. The bail was denied.
- 4<sup>th</sup> Hearing : 19 April 2021. Bail Hearing. The bail was granted.

## Accused's Statement

Ruhul Amin, following the suspicious death of writer Mushtaq Ahmed, conveyed his concerns on Facebook, prompting him to call for a rally on 27 February 2021, at Shahbagh, Dhaka. However, a complaint alleges that his Facebook posts, viewed as conspiratorial act against the government and state, have led to charges claiming incitement of public discord and disruption of law and order.

Amin, an advocate for worker rights and a vocal critic of jute mill closures, previously faced repeated arrests during related protests. He claimed that in the course of interrogations, authorities questioned him about alleged connections to foreign powers. He expressed frustration at being labeled a dangerous individual by the government, preventing him from holding the planned rally. Consequently, he was arrested a day prior and detained under charges filed under the Digital Security Act.

The legal proceedings have imposed substantial burdens on Amin. Monthly trips from Dhaka to Khulna for court appearances have proven financially taxing. Spending nearly two months in Jail Custody took a toll on his business, resulting in a financial loss of approximately three and a half lakh taka. Although the High Court eventually stayed the proceeding of the case, the personal and financial hardships faced by Ruhul Amin persist, as reflected in his words: "Despite living in Dhaka, I have to go to Khulna to take information and whereabouts of the case. Every time I go costs me a lot of money. It causes me severe mental anxiety and fear."

## Current Status of the Accused

The High Court granted a Stay order on the proceeding of the case filed against Ruhul Amin under the Digital Security Act. As a result, all proceedings are halted now.

## CASE STUDY - 7

# MD ABDUL KAIUM

### Case Summary

Md. Abdul Kaium, a journalist was accused under the Digital Security Act in May 2019. Kaium spent 53 days in jail before being granted bail on 3 July 2019 by the District Judges court. The proceeding of the case is now stayed through an order issued in June 2022 by the High Court. Md. Abdul Kaium was accused of being involved in circulating defamatory content on social media against one Idris Khan. Kaium faced a complex legal journey, marked by bail denials, jail custody and a charge sheet with accusation of false information dissemination and threats.

### Case Details

In 12 May 2019, Md. Idris Khan, Principal of Momenshahi DS Kamil Madrasha, initiated legal proceedings against Md. Abdul Kaium in Trishal Police Station, bearing case no 15/142, accusing him for disseminating misinformation against him. The FIR filed under the Digital Security Act, resulted him spending 53 days in jail custody. The allegations pertained to defamatory news circulating on social media platforms such as Facebook and online news portals like "Ajker Bangladesh," "Bhinnokhabar," and "Primekhabor." Subsequently, Kaium obtained bail and got release on 3 July 2019. At present, the case is halted by an order of Stay passed by a Division Bench of the High Court comprising of Mr. Justice S. M. Kuddus Zaman and Mr. Justice Md. Riaz Uddin Khan.

### Background

Md Abdul Kaium, a 31 years old young journalist, human rights activist, and online freelancer, navigated a maze of legal pathways shaped by the complexity of the Digital Security Act (DSA). His experience underscores the intricate interplay of events, legal procedures, and personal repercussions within the framework of the DSA. The ordeal began on the evening of 11 May 2019.

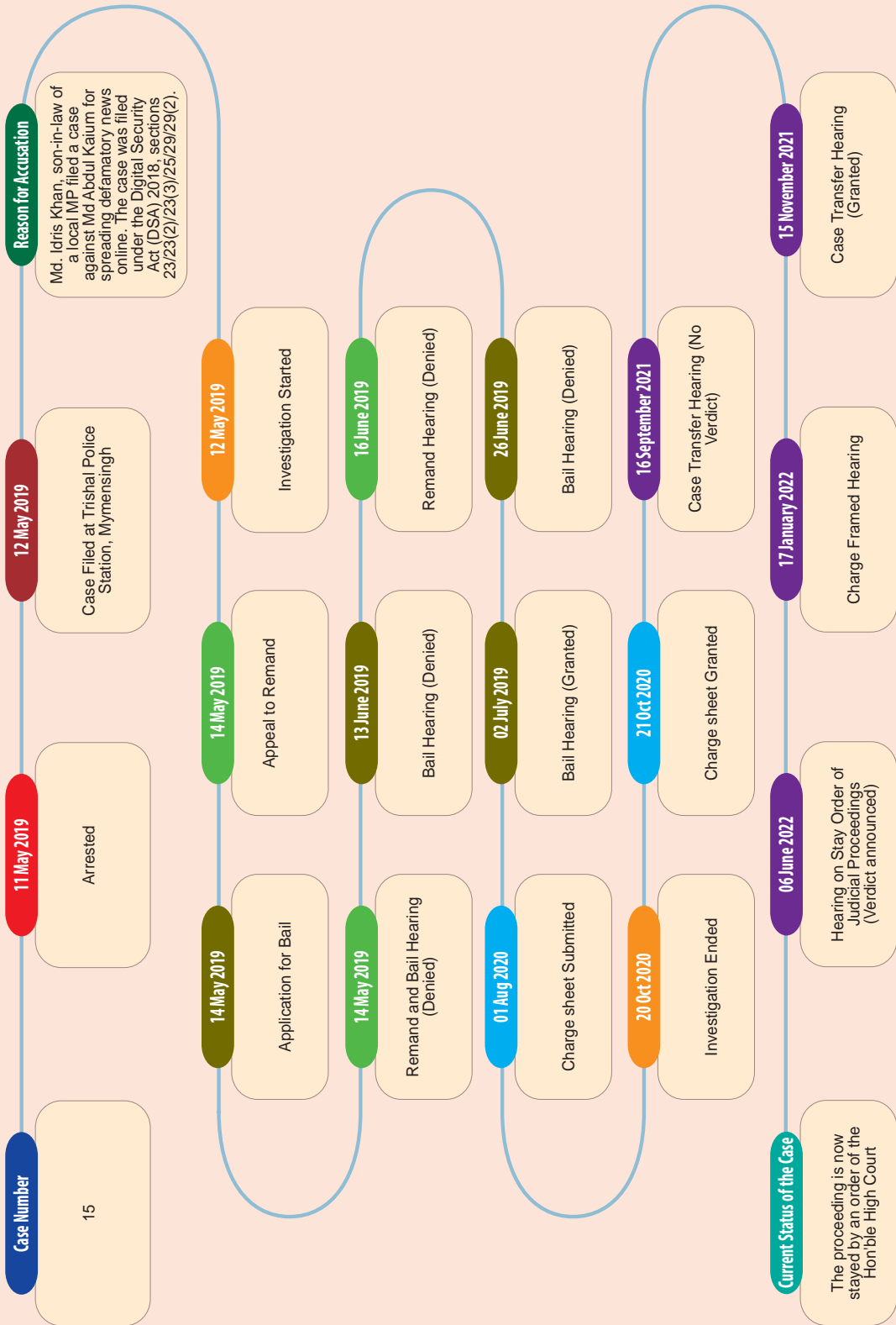
Kaium went to the Momenshahi DS Kamil Madrasah to receive payment for a website he had developed for the principal of the Madrasah. Kaium's routine visit to the Madrasah unfolded a series of fateful events. When the principal offered payment in US Dollars, Kaium, wary of potential irregularities, insisted on paying in Bangladeshi Taka. Upon leaving the premises, he was apprehended by plainclothed officers of the Law enforcing agencies on the charge of carrying USD 200 for alleged illicit activities. Notably, the purported 100-dollar notes were not found with him at the time of apprehension. Despite this, he was transported to the nearest police Special Branch (SB) office. During the initial 24 hours, Kaium's family remained unaware of his location. The arresting officers neither disclosed their identities nor clarified the reason for his apprehension.

### Remand

No Remand.

CASE STUDY

MD ABDUL KAIYUM



## Bail

On 14 May 2019, Kaium had his first hearing where his plea for bail was denied. On 16 June 2019, the court conducted an unscheduled second hearing, summoning a Prosecution Witness (PW), during which the judge once again rejected the bail prayer. Unfortunately, this hearing was not communicated to Md. Abdul Kaium's legal representative, leading to his absence in court. In the interim between these two hearings, Kaium's lawyer endeavored to secure bail on two occasions, encountering denial both times.

Subsequently, on 26 June 2019, during another hearing, Kaium's lawyer sought bail again but faced further denial. On 2 July 2019, a fresh bail application was submitted by Kaium's lawyer, resulting in the District Judge Court finally granting the bail prayer. Consequently, Md. Abdul Kaium was released from jail custody on 3 July 2019, culminating in a total period of 53 days spent in jail custody.

## Charge sheet

Superintendent Debasish Saha acted as the Investigating Officer of the case and submitted the Charge Sheet bearing no. 252 on 1 August 2020. In the Charge Sheet it was alleged that Kaium, deemed a proficient digital offender, disseminated misleading and baseless information through various devices, names, and links, causing harm to the reputation of the Informant, Idris Khan. Mr. Kaium was accused for using multiple mobile phone SIM numbers to spread false and malicious information about Khan on Facebook, resulting in reputational damage.

Kaium allegedly uploaded defamatory posts on platforms such as Protidiner Kotha, Ajker Bangladesh, and Bhinnokhobor, with titles implying grave accusations against Khan. Additionally, he is accused of creating a defamatory online page, 'bdfactfinding.com.' The charge sheet outlines incidents where Kaium allegedly sent threatening messages and made calls to intimidate Khan. Specific dates, such as 30 January 2019, and 16 February 2019, are mentioned, detailing the use of various phone numbers to spread false information and threats.

The charge sheet further accuses Kaium of spreading unauthorized pictures of Khan on YouTube, opening the defamatory page 'bdfactfinding.com,' and uploading offensive posts, subsequently deleted. The document details various news articles uploaded by Kaium on 31 January 2019, containing serious allegations against Khan, including financial misconduct and association with illegal activities.

The informant of the case claims that Kaium demanded money, and transactions occurred under duress, involving payments of Tk 50,000, Tk 25,000, and Tk 23,000. The accused allegedly continued threats and extortion, using a fake online page to menace Khan. The case was filed against him under Sections 23/23(2)/23(3)/25/29/29(2) of DSA. It is pertinent to note that the court accepted the charge sheet on 21 October 2020.

## Chronology of Legal Proceeding

- 1<sup>st</sup> Hearing : 14 May 2019. Remand and Bail Hearing. The Remand and Bail were denied.
- 2<sup>nd</sup> Hearing : 16 June 2019. Remand Hearing. The remand was denied.
- 3<sup>rd</sup> Hearing : 26 June 2019. Bail Hearing. The bail was denied.

- 4<sup>th</sup> Hearing : 2 July 2019. Bail Hearing. The bail was granted.
- 5<sup>th</sup> Hearing : 16 September 2021. Case Transfer Hearing.
- 6<sup>th</sup> Hearing : 15 November 2021. According to the Case Transfer Hearing.
- 7<sup>th</sup> Hearing : 17 January 2022. Charge Framed Hearing,
- 8<sup>th</sup> Hearing : 6 June 2022. Hearing on Stay Order of Judicial Proceedings. The order of stay was passed.

## Accused's Statement

"I've had to endure significant financial and emotional burdens, constantly navigating the courtrooms just to prove my innocence," expressed Md. Abdul Kaium in an interview. He went on to share a distressing aspect of his incarceration, revealing, "During my time in prison, I was denied medical attention for my asthma, and images of me in handcuffs were exploited to tarnish my reputation within the community." This difficult journey has not only impacted his professional life but has left lasting scars on his personal well-being, he insisted.

Kaium lamented the collateral damage to his journalistic career, stating, "Now, I can no longer work as a journalist as news organizations perceive me as a liability that may bring harm to their reputation." The ordeal extends beyond him, with his family continuing to face harassment from accusers and their supporters. Despite settlement offers from the accusing side after he got out of prison, Kaium is resolute about fighting the case in court, firmly asserting his innocence.

He perceives the entire episode as a concerted conspiracy to obstruct his work as a journalist and human rights defender. Kaium recounted four years of physical and mental trauma, with profound financial repercussions affecting both him and his family. Although did not go to Jail Custody again, the persistent fear of reprisals hampers his reporting on human rights violations, leading him to abandon personal writing. Kaium believes that the Digital Security Act has been used as a tool against him, hindering his journalistic pursuits. His narrative emphasizes the profound personal and professional toll borne by individuals trapped in legal complexities.

The hearings, remand, bail, case transfer, and charge framing, portrayed a challenging legal battle for Md. Kaium. Kaium's interview highlighted the financial and personal toll, impacting his journalism career and family. He deemed the case a conspiracy to hinder his work as a journalist and human rights defender, expressing ongoing fear and threats.

## Current Status of the Accused

The proceeding of the case is currently stayed through an order of the High Court issued on the 6 June 2022 passed by a Bench comprising of Mr. Justice S M Kuddus Zaman and Mr. Justice Md. Riaz Uddin Khan.

## CASE STUDY - 8

# PRITOM DAS

### Case Summary

Pritom Das, a citizen rights activist based in Sreemangal, faced accusations under the Digital Security Act on 4 September 2022. The case (Number; 06) was filed by Mahbub Alam Bhuiyan, at Sreemangal Police Station citing "hurting religious sentiments." Pritom was arrested on 9 September 2022, after expressing critical views on the government and sharing a quote from Saadat Hasan Manto on Facebook and spent 131 days in jail custody. After denial of his bail application six times, the High Court granted him bail on 19 January 2023. Investigating Officer Rakibul Hasan submitted a charge sheet on 25 January 2023, asserting that Pritom consistently posted anti-government and anti-Islamic content on Facebook, resulting in communal discord and religious tensions in the area.

Following Pritom Das's arrest, a rally was organized by the 'State Reform Movement' and subsequently the rally was subject to physical attacks by Awami League and Student League members. Thereafter Pritom's critical Facebook post was revived and hugely shared by Facebook users. Pritom made Facebook posts on various political contexts and on the basis of critical political thinking. Pritom asserts that the case, accusing him of anti-government posts and hurting religious sentiments, has caused significant personal, financial, and health-related hardships. Currently, he is on bail, however, the case is ongoing in the Sylhet Cyber Tribunal.

### Case Details

Local Student League activist Mahbub Alam Bhuiyan filed a case against Pritom Das under Section 25(2)/28(2)/29(1)/31(2) of the Digital Security Act on 4 September 2022 for "hurting religious sentiments." Afterwards, Sreemangal Police arrested him from the Sreemangal Municipal area on Friday 9 September 2022 at 7 pm. He was granted bail by the High Court after persistent try and several attempts. His bail applications were rejected six times before he obtained bail from the High Court. He was released on 19 January 2023, after spending 131 days in jail custody. Rakibul Hasan of Sreemangal Sreemangal police station being the investigating officer submitted the charge sheet to the court on 25 January 2023, after a long investigation. Currently, the trial of the case is underway.

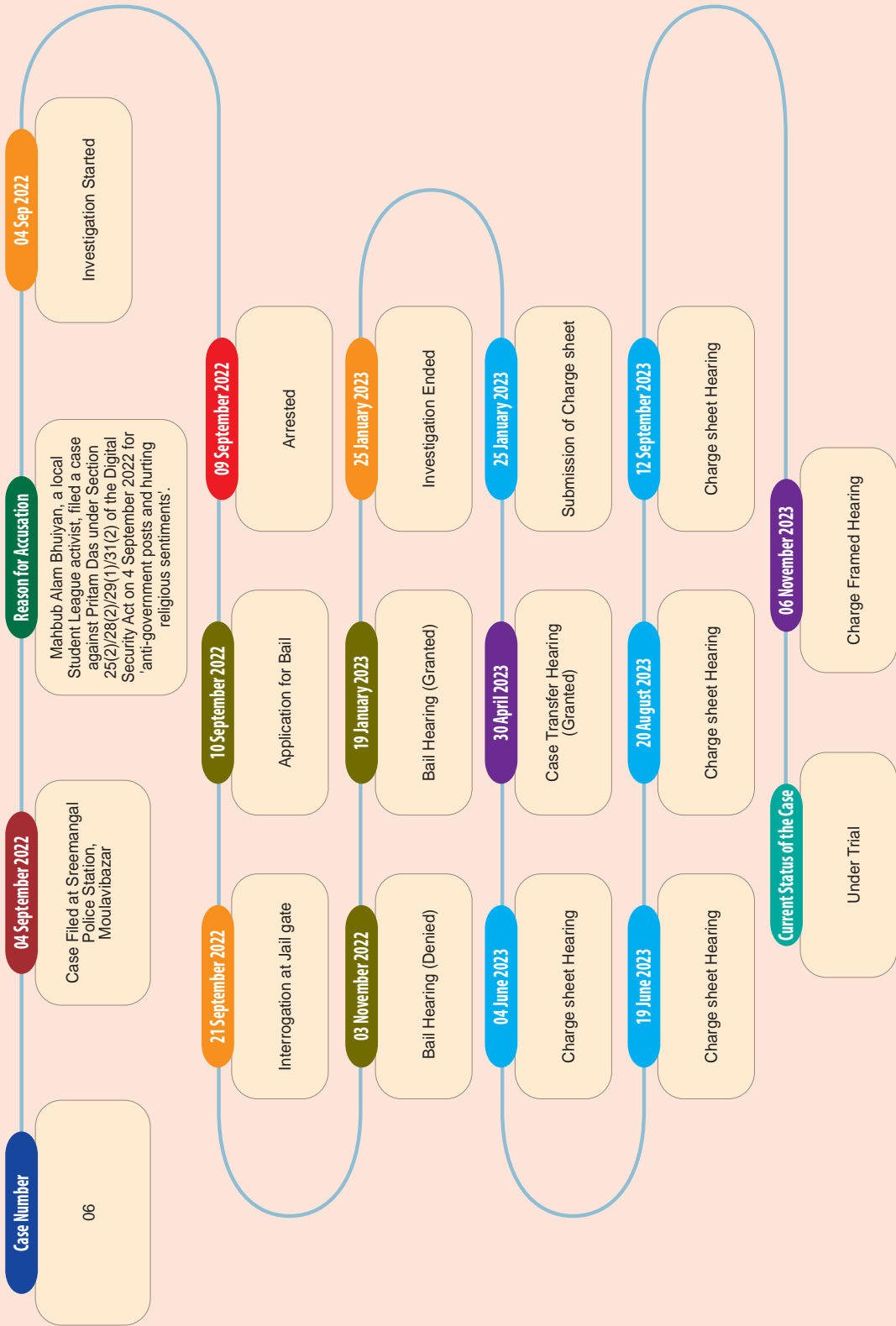
### Background

Pritom Das has consistently expressed critical views on government policies and decisions through his Facebook posts. On 6 June 2022, he questioned the efficacy of government departments, ministers, and secretaries, highlighting instances where critical information became apparent only after incidents had occurred. He challenged the existing system and its lack of accountability, raising concerns about potential future victims. On 8 July 2022, Pritom shared a quote from Saadat Hasan Manto, a prominent Urdu fiction writer of the early 20th Century, on Facebook. This post led to accusations of "insulting Islam" by Abed Hossain, the former general secretary of the Sreemangal Municipal Student League. Abed Hossain urged authorities to take



CASE STUDY

PRITOM DAS



legal action against Pritom and provided a screenshot of the allegedly provocative post. On 29 August 2022, Abed Hossain shared his concerns about Pritom's post, accusing him of satire against Islamic practices. On 31 August 2022, the 'Devout Muslim Crowd of Sreemangal' staged a protest, demanding Pritom Das's arrest. Subsequently, on 4 September 2022, Mahbub Alam Bhuiyan, a local Student League activist, filed a case against Pritom Das under the Digital Security Act at Sreemangal Police Station in response to the perceived provocative remarks about Islam.

## Remand

Following a prayer made by Rakibul Hasan, the Investigating Officer of the case, the Magistrate allowed a jail-gate interrogation on the case on 18 September 2022. In light of this order, on 21 September 2022, Investigating Officer Rakibul Hasan conducted a 10-minute interrogation with Pritom Das at the jail gate, addressing the allegations outlined in the case.

## Bail

The bail applications for Pritom were rejected six times before the judicial court below and on the seventh attempt, the High Court granted his bail on 19 January 2023. After 131 long days in prison, he was released on bail at 6 pm on the same day.

## Charge sheet

The investigating officer of the case, Rakibul Hasan, submitted a charge sheet against Pritom Das on 25 January 2023. In the charge sheet, it was alleged that Pritom Das has consistently posted anti-government and anti-Islam posts from his Facebook ID Pritom D Pritom. He wrote a post on 6 June 2022 from his used Facebook account "After the agreement, it is known that the hospital has no license! After the death of the patient, it is known that the doctor is fake! After the fire, it is known that the design of the building was flawed! After the accident, it is known that the car or the launch is unfit! After the explosion, it was known that there were chemicals in the warehouse that were not approved! So why do you pay these government departments and their ministers and secretaries with money? Why keep the system in which they cannot be judged? How many victims will be killed like this?" On 8 July 2022 he made another post saying "Saadat Hasan Manto, one of the best storytellers of Urdu language, was once asked; What is the news of your country? Manto replied that the scene of Jumma prayer in prison is just like the situation in the country. A Mischievous person calls for the prayer, a murderer leads as an imam and a group of thieves prays behind." In another post on 6 August 2022, he wrote, "People are really disgusted and are death rattling over time. To get rid of this, it is necessary to dismiss this government overnight. State reform is needed." The charge sheet alleged that Pritom posted and shared various anti-government and anti-Islamic offensive and religious sectarian incitement posts through the ID he used. Due to his posts, communal harmony and religious tensions have been created along with adverse reactions in the area. According to sections 25(2), 28(2)/29(2), and 31(2) of the Digital Security Act, he has committed an offense by posting with the intention of tarnishing the image or reputation of the State or spreading confusion in the public mind and with the aim of destroying the communal harmony of the country.

## Chronology of Legal Proceeding

- 1<sup>st</sup> Hearing : 3 November 2022. Bail Hearing. The bail was denied.
- 2<sup>nd</sup> Hearing : 19 January 2023. Bail Hearing. The bail was granted.
- 3<sup>rd</sup> Hearing : 30 April 2023. Case Transfer Hearing. The appeal was granted.
- 4<sup>th</sup> Hearing : 4 June 2023. Charge sheet Hearing.
- 5<sup>th</sup> Hearing : 19 June 2023. Charge sheet Hearing.
- 6<sup>th</sup> Hearing : 20 August 2023. Charge sheet Hearing.
- 7<sup>th</sup> Hearing : 12 September 2023. Charge sheet Hearing.
- 8<sup>th</sup> Hearing : 6 November 2023. Charge Framed Hearing.

## Accused's Statement

On 27 August 2022, the State Reform Movement organized a rally in Choumohana, Sreemangal to express solidarity with the demand to increase the wages of tea workers to 300 taka. At the beginning of the rally, Awami League and Student League workers attacked the leaders and workers of the movement. Many leaders and workers of the organization including Riaz Khan, Jabed Bhuiyan, and Pritom Das were seriously injured. Later, two separate press conferences were held at Sreemangal Upazila Press Club and Sreemangal Press Club on 29 and 31 August to protest the attack. Pritom said during the interview "After the press conference, the BCL activists got angry with me and made my old Facebook post viral. And the former general secretary of the Municipal Student League posted on Facebook demanding my trial." His post was a quote by famous Urdu writer Saadat Hasan Manto. There he compared the prison conditions with the conditions in Pakistan back then. He added, "I thought it was political but they called it blasphemy and took out a procession against me on 1 September 2022. They were inciting the Muslim community so that the police would arrest me." Then on 4 September 2022, local Student League activist Mahbub Alam Bhuiyan filed a case against him under Section 25(2)/28(2)/29(1)/31(2) of the Digital Security Act. Sreemangal Police arrested him from the Sreemangal Municipal area on 9 September 2022 at 7 pm in the evening. While sharing the experience, Pritom said "Since the arrest, I, my family, and friends have all been subjected to mental torture. After spending 131 long days in jail, I have many physical problems. I lost two teeth due to a lack of nutrition." He was associated with a business. He mentioned that due to being in prison, he has suffered a huge loss in business. In total, financial detriment of about 15 lakhs was incurred. Above all, he thinks, he has been sued under the Digital Security Act for allegedly hurting anti-government and religious sentiments which is false and fabricated, and his Facebook posts were intentionally made viral only because he expressed solidarity with the fair movement of tea workers.

## Current Status of the Accused

Pritom Das is currently out on bail. The case is under trial in Sylhet Cyber Tribunal.

## CASE STUDY - 9

# SHANTO BANIK

### Case Summary

The case revolves around a news report published on 28 April 2020, allegedly by a journalist Shanto Banik (35) on the online portal of *Daily Grameen Darpan*. The report, covering the alleged torture and killing of a CNG auto rickshaw driver in police custody, included a statement from Police Officer Md. Zahirul Alam, who later accused the journalists of publishing misinformation without police confirmation. On 30 April 2020, a group of individuals in COVID-19 gear arrived at Shanto Banik's home, claiming them as police officers. Shanto initially was reluctant and afterward upon knowing their identity fully cooperated with the police. The police seized his belongings and arrested him, leading to his Jail Custody for 47 days.

The case was filed under the Digital Security Act by one Zahirul Alam, alleging the dissemination of false news by Shanto Banik. Despite multiple bail applications and subsequent acquittal on 2 March 2022, Shanto faced significant challenges, incurring financial costs and medical expenses for himself and for his father. The family struggled during Shanto's incarceration, emphasizing the personal toll of the legal ordeal. The court's decision, acquitting Shanto based on presented evidence, marked the conclusion of the case at the Dhaka Cyber Tribunal.

### Case Details

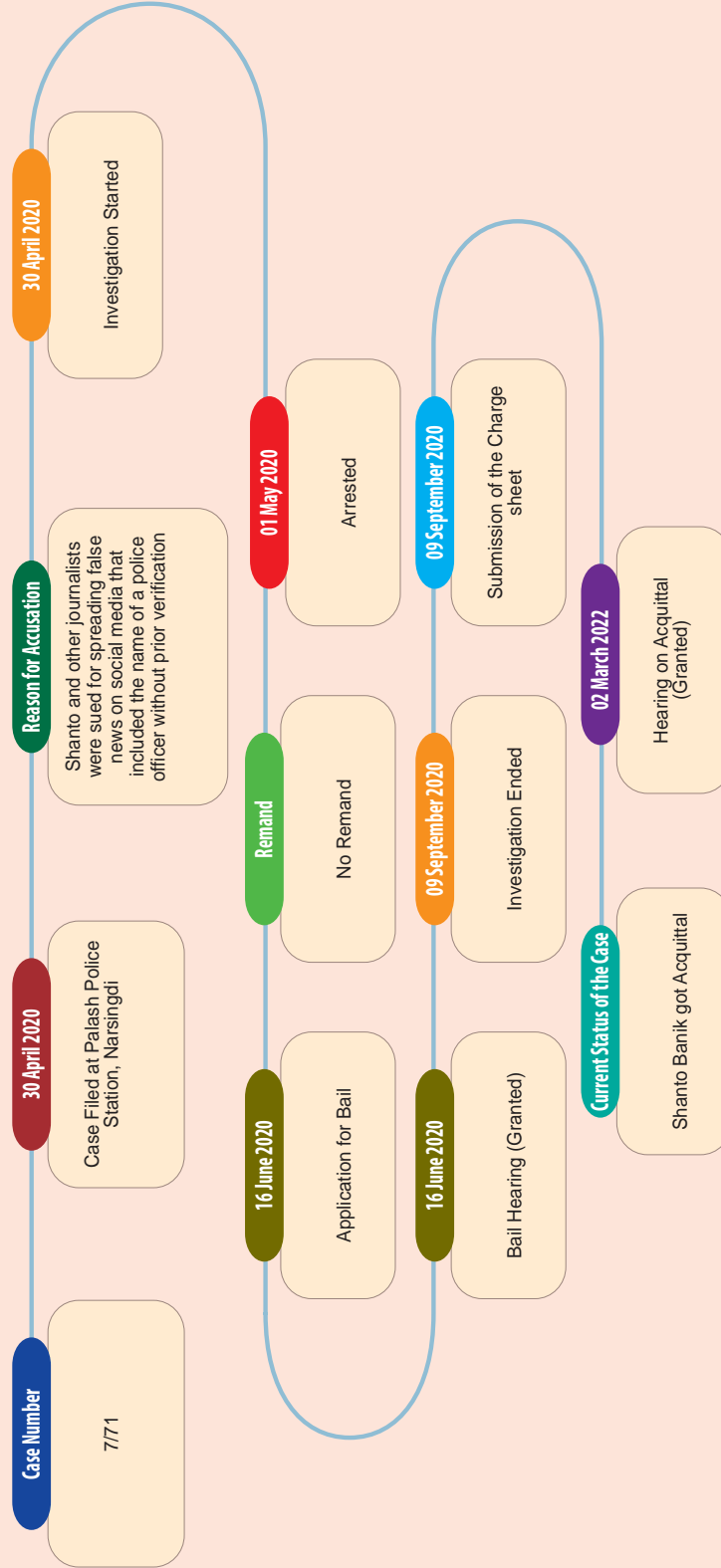
On 28 April 2020, a news report published on the online portal of 'Daily Grameen Darpan' about a CNG auto rickshaw driver being tortured and killed in police custody covered by a journalist, Sharif Iqbal Rasel being a staff reporter' that included a statement of a police officer, Md. Zahirul Alam. Shanto Banik who also happened to be a staff reporter of that newspaper became accused for quoting the office officer. However, according to the police, they never gave any interview to any journalist in this matter.

On 30 April 2020, during the lockdown of the COVID-19 pandemic, thirty to thirty-five people in fully covered COVID-19 gear (PPE) came to Shanto's village home at Rampur with 7 or 8 white micro buses at around 12:15 am. One of them introduced himself as the Officer in Charge of the Detective Branch of police and asked Shanto to come outside to talk. Shanto initially refused to open the gate. Then he called a police officer personally known and confirmed that there was indeed a legal matter to handle. So, he agreed and accompanied the police. Police took him to the other accused's place in a police car handcuffed and blindfolded before reaching there.

It is alleged that, the senior officials of the district police were angry with Alam (the In-charge of Ghorashal police outpost) for allegedly being involved in making a fabricated and baseless report citing him. Therefore, to protect his honor, Alam filed a case under the Digital Security Act 2018 against three journalists including Shanto Banik who was one of the staff reporters and the news editor of the local newspaper 'Daily Grameen Darpan.'

CASE STUDY

SHANTO BANIK



## Background

A case was filed against three journalists under the Digital Security Act, at the Palash Police Station on 30 April 2020 night by Zahirul Alam, In-Charge of the Ghorashal outpost under the Palash Police Station. Alam filed the case accusing Shanto and two other journalists of publishing fake news referring to his name without talking to the police officer and spreading it on Facebook and committed offenses under Sections 25/35/31/29 of the Digital Security Act 2018.

## Remand

No Remand.

## Bail

The accused, Shanto Banik was in jail for a total of 47 days. He got bail on the fifth attempt on 16 June 2020 from the District Judges Court and finally got out of jail on 17 June 2020 after the documents were sent to the jail from court. After getting bail he submitted an application to the Superintendent of Police, Narsingdi to remove his name from the charge sheet adding all the proofs of his innocence.

## Charge sheet

On 9 September 2020, the police submitted the charge sheet. Afterwards, the case was transferred to the Dhaka Cyber Tribunal. Muhammad Humayun Kabir appointed as an Investigation Officer (IO), implicated three journalists in the above-mentioned charge sheet, accusing Shanto Banik as the primary accused. The investigation report submitted by IO alleges a collaborative effort among the accused journalists to disseminate misinformation, thereby tarnishing the reputation of a prominent police officer.

The charge sheet stated that the journalists published the report with the intent to spread falsehood and misinformation. Specific mention is made of two reports, one published in the online edition of the 'Daily Grameen Darpan' newspaper from Narsingdi titled 'Police beat youth to death for theft allegations in Ghorashal,' and another set of reports on the online portal Narsingdi Pratidin titled 'Death after being taken to Ghorashal outpost, Police beat youth to death on allegation.' The informant of the case, Zahirul Alam identified the news through Facebook and claimed that his name was involved in the reports without any prior communication or verification with him by the reporters referred.

The charge sheet submitted under Sections 25(2)/35(2)/31(2)/29(2) of DSA serves as the legal basis for the case, and the Charge sheet has been submitted to the court for further adjudication.

## Chronology of Legal Proceeding

1<sup>st</sup> Hearing: 16 June 2020. Bail Hearing. The bail was granted.

2<sup>nd</sup> Hearing: 2 March 2022. Hearing on Acquittal. Shanto Banik got acquittal.

## Accused's Statement

On 30 April 2020, during the COVID-19 pandemic, approximately thirty to thirty-five individuals fully covered with COVID-19 gear (PPE) arrived at the village home of Shanto Banik around 12:15

am, in Rampur. They came by seven or eight white minibuses. One of them identified himself as the Officer-in-Charge of the Detective Branch of Police and requested Shanto Banik to come outside for a discussion. Shanto Banik who was standing on the balcony, declined to open the gate without knowing their identity and reason. Having suspicion on their intentions, Shanto contacted an officer personally known to him. After confirming that they were from the police department, he decided to go outside and get dressed, and the group, growing impatient, requested him to bring his mobile phone. As soon as he stepped outside, they seized two mobile phones from him.

During the interview, Shanto said, "The police officers picked me and I was taken on a white minibus. Midway, the group came back to my house to seize my laptop, conducting a thorough search of my house while causing a disturbance to other family members." The police officers did not even inform Shanto's family about their destination. Around 1:30 a.m., after seizing the laptop, they returned to the car. Sharing the incident, Shanto mentioned "I was handcuffed and blindfolded. Along with other journalists, I was taken to the Palash Police Station, and the Officer-in-Charge conducted an interrogation, asking me to provide the password for my phone and laptop."

Shanto was arrested on 30 April, midnight, and the case was filed against him after taking him to the Police Station. However, Shanto, taken to court around 9:30 am, experienced a mere 10-minute custody hearing. Despite the family appointing legal representation, entry to the court was denied due to lockdown, leading to all accused being directly sent to jail without a proper hearing.

Shanto Banik endured 47 days of confinement, securing bail on 16 June 2020 from the District Judge Court after five applications. The release, however, occurred on 17 June 2020, only after the court documents reached the jail. Post-bail, the defendants submitted an application to the Superintendent of Police, Narsingdi, seeking the removal of their names from the charge sheet. This application included evidence of innocence, such as an email screenshot showing Sharif Iqbal Rasel sending the news report to the Grameen Darpan editor. Despite the absence of evidence linking Shanto to the report on his devices, the police refrained from removing his name from the charge sheet. The charge sheet was submitted on 9 September 2020, and the case was transferred to the Dhaka Cyber Tribunal.

Following several hearings, on the day of framing of the charges, the court excluded Shanto's name from the case and ordered acquittal based on all the proofs and documents submitted in his defense on 2 March 2022. Reflecting on this legal ordeal, Shanto expressed, "this legal ordeal incurred a cost of at least 6 lacs taka, coupled with substantial medical expenses for my father, who got ill by the news of my arrest and jail custody and by the fear of losing his social reputation." The family faced significant challenges during Shanto's incarceration, requiring his brother to navigate between the court and police station while their father was bedridden.

## **Current Status of the Accused**

On 2 March 2022, after several hearings, Dhaka Cyber Tribunal Judge Mohammad As Shams Jaglul Hossain acquitted Shanto from this case based on all the proofs and documents he submitted in his defense.



## CASE STUDY - 10

# IMTIAZ AHMED KAJOL

### Case Summary

On 23 September 2019, Asaduzzaman Faruk filed a case against Imtiaz Ahmed Kajol (35) under the Digital Security Act 2018 for defaming him through posts on Facebook. Imtiaz had been arrested on the same day in connection to another case for posting anti-government propaganda. The informant of the case, a journalist, alleged that Imtiaz defamed him on social media, leading to social humiliation. Imtiaz sought bail nine times, denied until the High Court granted it after 10 months of jail custody. The charge sheet, submitted on 23 September 2019, accuses Imtiaz under Sections 25/29/31 of the Digital Security Act. The investigation underwent various transfers and delays. The proceeding includes various applications including adding further charges, bail prayers and other procedural measures. Imtiaz claimed that he has been subject to harassment, financial loss, and reputational damage during his 10-month jail custody. His case is still under trial.

### Case Details

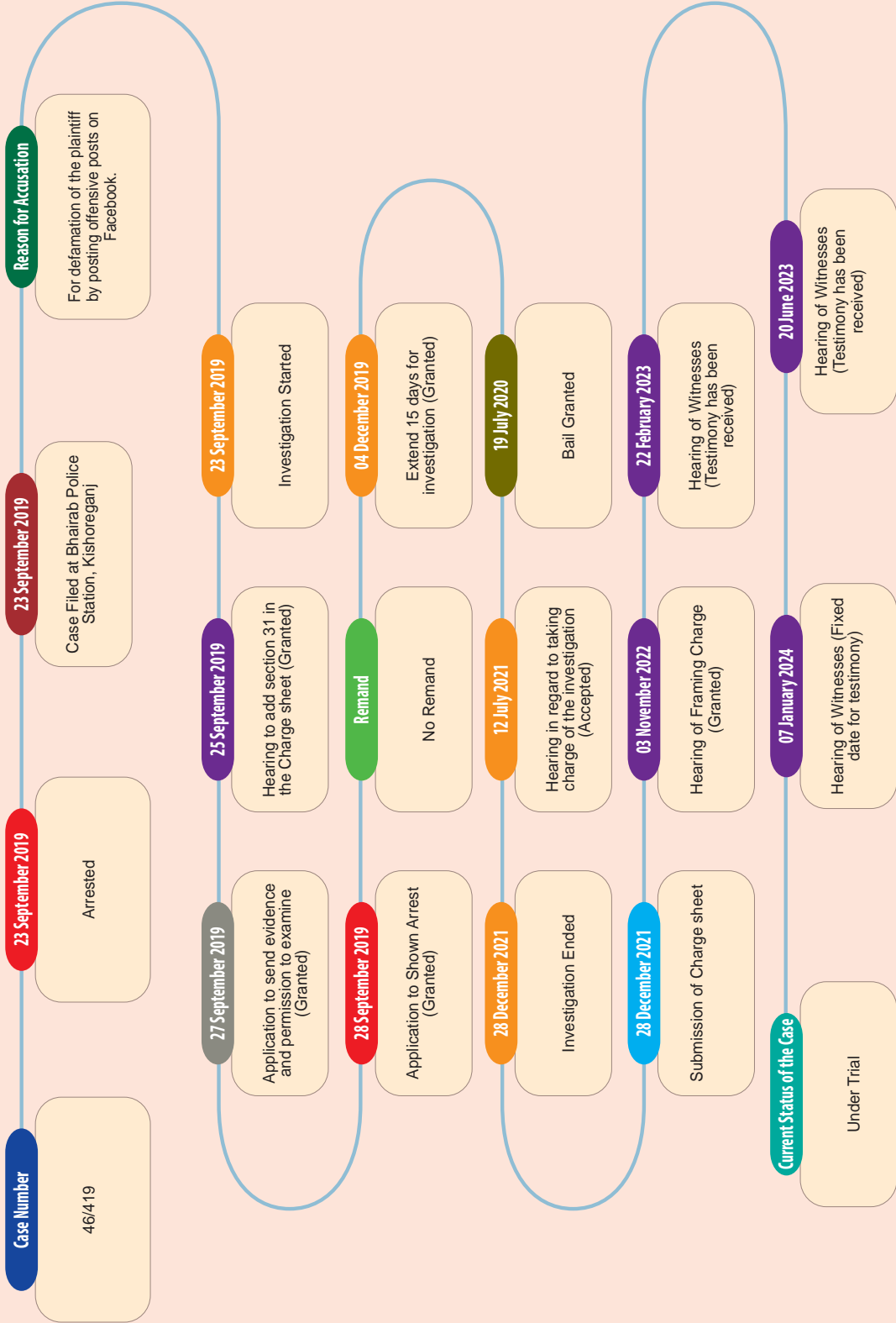
The FIR shows that one Asaduzzaman Faruk filed a case bearing case no 46/419 at Bhairab police station on 23 September 2019 against Imtiaz Ahmed Kajol under Sections 25 and 29 of the Digital Security Act 2018 for defaming him by posting offensive posts on Facebook. He had been arrested on the same day by the police in two cases filed under the Digital Security Act 2018 in Bhairab for posting anti-government propaganda and 'misleading' posts about the law enforcement agencies on social media Facebook and for taunting the Prime Minister. It is claimed by the prosecution that, Kajol also has five other cases against him for various crimes including murder and drugs. He was sent to Kishoreganj Jail on 23 September 2019.

### Background

According to the FIR, the informant of the case was the correspondent of the Daily Jugantor, Bhairab and he published a report mentioning the accused Kajol's name in various news. Following so, allegedly to defame his name on Facebook and other social media, the accused Kajol posted a status saying, "That senior journalist from Bhairab was convicted for one-year confinement and was fined for 6 lac taka. If the same incident involved any member of the BNP, journalists from different areas would create chaos on Facebook. But as the incident involves a journalist, no one is talking about it. Because all journalists are friends. But they consider us who support the BNP as their enemies. I am saying this today because although the last parliament election was a big fraud, not a single journalist of Bhairab covered a neutral news regarding the incident." Imtiaz also posted other posts to 'defame' the informant and allegedly humiliated him socially. Therefore, after collecting evidence and discussing the matter with relatives he filed a case against Imtiaz Ahmed Kajol.

CASE STUDY

IMTIAZ AHMED KAJOL



## Remand

No remand.

## Bail

Imtiaz applied for bail before the Judicial Magistrate Court and the District Session Judge Court but was denied nine times. After applying for bail in the High Court, his petition for bail was granted, and he was released from prison on 19 July 2020, after spending 10 months in jail custody.

## Charge sheet

The investigation of this case started on 23 September 2019 and ended on 28 December 2021. According to the charge sheet, the Investigation Officer (IO) Abhijit Chowdhury (Sub-Inspector) of Bhairab police station was the first investigation officer of this case. He interrogated the informant about the case and included the testimonial of one witness in the docket. He arrested Imtiaz and presented before the court. After that, he submitted the seizure list and sent it to the CID office, in Dhaka for forensic examination. Then, he prayed to the Senior Judicial Magistrate to add Section 31 of the DSA to this case to be inserted in the charge sheet.

While the investigation was ongoing, the Investigation Officer was transferred to another place, and the charge of investigation was handed over to Sub-Inspector Md. Masudur Rahman of Bhairab police station. When he started investigating the case, the case was transferred to CID for further investigation. On 27 September 2020, Inspector Md. Hedayet Ullah took over the investigation of the case. He drafted the second map and created the index. During further investigation, Md. Jahangir Hossain, Inspector of IT Forensic department, CID, Dhaka stated that, while examining the Facebook ID and seized items, there were posts from the alleged ID named 'Imtiaz Ahmed Kajol' and the living area of the ID was Bhairab as well. So, those allegations were corroborated.

As Inspector Hedayet Ullah went for PRL for 12 months from 5 June 2021, Sub-Inspector Md. Mohsin Khan took charge of the investigation on 20 June 2021. After investigating the case and reviewing the proof submitted by Cyber Forensic CID, Dhaka, the Investigation Officer submitted the charge sheet before the court and it stated that the accused Imtiaz Ahmed Kajol found guilty primarily of the offense under Sections 25/29/31 of Digital Security Act 2018 and the case was transferred to Dhaka Cyber Tribunal for trial.

## Chronology of Legal Proceeding

- 1<sup>st</sup> Hearing : 25 September 2019. Hearing to add section 31 to the Charge sheet. The court granted the prayer to add section 31.
- 2<sup>nd</sup> Hearing : 27 September 2019. Application to send evidence and permission to examine. The prayer was granted.
- 3<sup>rd</sup> Hearing : 28 September 2019. Application to shown arrest. The prayer was granted.
- 4<sup>th</sup> Hearing : 4 December 2019. Application to extend 15 days for investigation. The prayer was granted.

- 5<sup>th</sup> Hearing : 12 July 2021. Regarding taking charge of the investigation. The prayer was granted.
- 6<sup>th</sup> Hearing : 3 November 2022. Hearing for Framing Charge. The prayer was granted.
- 7<sup>th</sup> Hearing : 22 February 2023. Hearing of Witnesses. Testimony has been received by the court.
- 8<sup>th</sup> Hearing : 20 June 2023. Hearing of Witnesses. Testimony has been received by the court.
- 9<sup>th</sup> Hearing : 7 January 2024. Hearing of Witnesses. The court fixed the next date for testimony.

## Accused's Statement

Imtiaz Ahmed Kajol is an active social worker and citizen rights activist. He was writing regularly on Facebook against various injustices, corruption and anomalies in society to make people aware. Sometimes those posts went against the current Awami League government and as a result, the local Awami League leaders became resentful. Kajol said "There was a case against Asaduzzaman Faruk, Bhairab correspondent of the newspaper Daily 'Jugantar'. The judge court convicted him for 1 year of imprisonment and a fine of 6 lac taka." As he posted about that on Facebook, the informant of the case (Asaduzzaman) claimed he has been defamed and his reputation degraded in the society. Therefore, local Awami League leaders due to previous enmity influenced Asaduzzaman to file a case against him under the Digital Security Act.

He also complained that police officers from the Bhairab Police Station arrested him before the case was filed and brought him to the police station. He shared, "They tied my eyes and face with black cloth and tortured me at the police station. The police officers wanted to know why I wrote against the government's irregularity, injustice, corruption, and deprivation of voting rights on Facebook." Later on 23 September 2019, he was sent to jail under Sections 25 and 29 of the DSA.

Notably, while Kajol was in Jail Custody, the Investigation Officer prayed to the Senior Judicial Magistrate court of Kishoreganj for adding Section 31 of the Digital Security Act on the charge sheet of the case as he thought it was necessary. Imtiaz claimed, "They wanted to harass me and confine me for a long time, that's why they went as far as they could go." He also said "I was detached from the world and could not do social work due to my stay in jail for 10 months in this case. In total, I suffered from a financial loss of approximately 5 lac taka. Moreover, my reputation in the society has been seriously harmed." He also said that he was harassed for writing for truth and justice. Imtiaz claimed, "To harass me for a long time, submission of my charge sheet was delayed for no specific reason and Investigation Officers of my case were changing frequently." He had to attend the hearings on a regular basis. He said, "The harassment even after getting released on bail knows no bounds."

## Current Status of the Accused

The case against Imtiaz is still under trial. The next date for the hearing is fixed for receiving witness testimony on 7 January 2024.

# CONCLUSION

The Digital Security Act (DSA), implemented in 2018, has been a contentious legal framework in Bangladesh, drawing widespread criticisms from various segments of society. The law has drawn condemnation from the international human rights body. It has been seen as a serious impediment to freedom of expression and contrary to the covenant Bangladesh has signed on.

The government's decision to repeal the DSA and introduce the Cyber Security Act (CSA) has not assuaged public concerns, as the most vicious sections are still present in the CSA. As a result, the amendment process, characterized by the transformation of specific sections and the presence of controversial sections, has led to skepticism within the public sphere.

This report, drawing on a comprehensive analysis of DSA trends from October 2018 to September 2023, presents a broad picture of the law's impacts. By examining twelve specific cases, the report sheds light on the multifaceted consequences faced by those accused under the DSA, ranging from extended pre-trial detentions to instances of abduction and torture.

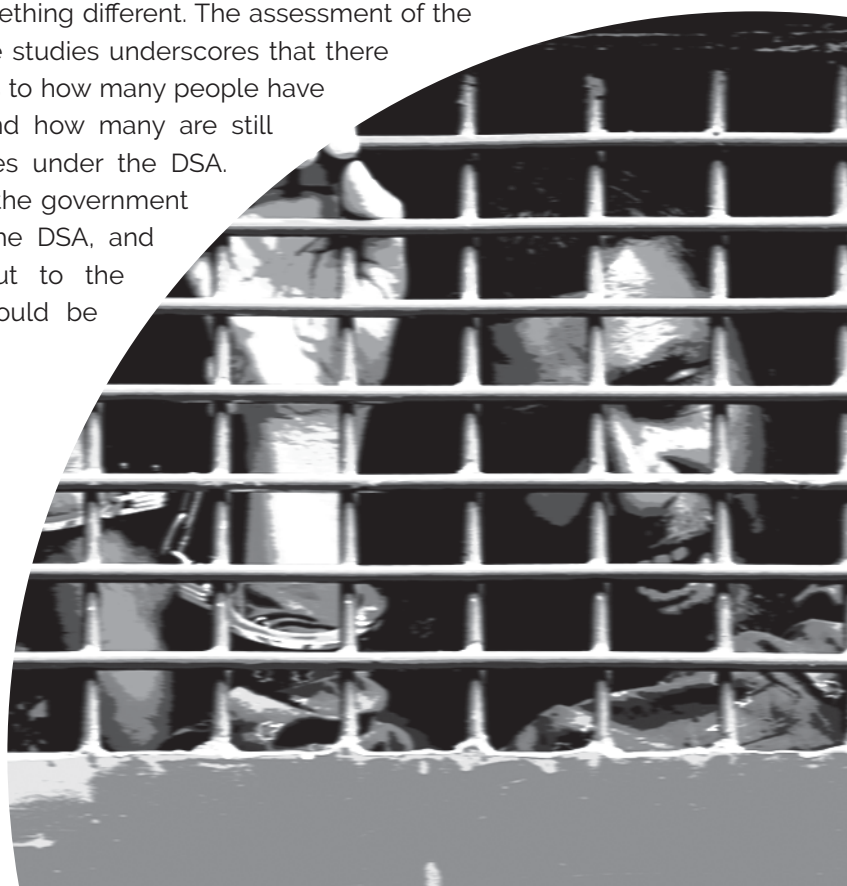
Serial No	Name of the accused	Case filed by individual or the state?	Arrested before case filed?	Charge sheet submitted after how many days of filing case?	How many times bail denied?	Bail after how many days of arrests?	Current state of the case
1	Md. Abdul Kaium	Individual	Yes	447 Days	4	53	Proceeding Stayed by High Court
2	Didarul Islam Bhuiyan	State	Yes	404 Days	4	132	Proceeding Stayed by High Court
3	Jhumon Das Apon (Case 1)	State	Yes	N/A	7	189	Under Trial
4	Jhumon Das Apon (Case 2)	State	Yes	N/A	2	85	Under Trial
5	Md Ruhul Amin	State	Yes	57 Days	2	51	Proceeding Stayed by High Court
6	Pritom Das	Individual	No	143 Days	2	132	Under Trial
7	Shanto Banik	State	No	132 days	5	47	Judge ordered acquittal
8	Khadijatul Kubra (Case 1)	State	No	564 days	4	450	Under Trial
9	Khadijatul Kubra (Case 2)	State	No	589 days	4	450	Under Trial
10	Lutfur Rahman Shawon	Individual	No	218 days	12	309	Under Trial
11	Imtiaz Ahmed Kajol	Individual	No	827 days	9	300	Under Trial
12	Mamunur Rashid Nomani	Individual	Yes	N/A	1	16	Under Trial

These case studies show that DSA has been used by individuals to settle personal scores on the one hand, while by the government against those who have raised voices against injustices, official malpractices, and misgovernance of the ruling regime. The ten individual's predicaments document the challenges faced by accused individuals. Protracted legal processes, in many instances, are a result of police not filing the charge sheet within the timeframe stipulated in the DSA 2018. One of the critical elements of these cases is disparities in securing bail. Often the accused persons have been denied bail in the lower courts on several occasions. As such, pre-trial jail custody has become a de facto punishment for the accused before completion of trial. They were practically treated as guilty of crimes they might not have committed. In more than one instance, forensic reports have not supported the accusations, yet the accused had to endure pretrial jail custody for a long period. Securing bail does not bring an end to the agonizing experiences of the accused, as the cases drag on for years and years. Throughout the legal process, the accused incur financial losses, Besides, their families face an adverse situation.

The plight of Mushtaq Ahmed, an author and social activist who died during a ten-month jail custody, serves as a poignant illustration of the severe consequences of use of the DSA to silence the critics. Some of the accused of our sample alleged that they had been mentally or physically tortured and faced degrading treatment while being arrested, for example being blindfolded. In some instances, they have been arrested even before the case against him/her was filed.

All these are contrary to the existing laws of the land and a violation of the fundamental rights of a citizen. The law, by itself, has criminalized dissent, created a climate of fear, and put the sword of Damocles over the heads of the citizens. These cases and the plight of the accused show how the law had become a weapon and provided opportunity for vigilante justice.

The government might suggest now that the law has been repealed and replaced, these are matters of the past. But, as the new law – CSA- is no different from the DSA, there is no reason to believe that the experience will be something different. The assessment of the DSA of the past five years and these case studies underscores that there should be an independent investigation as to how many people have gone through experiences like these, and how many are still subjected to the lingering effect of cases under the DSA. Considering the experience of five years, the government must examine each cases filed under the DSA, and where injustices have been meted out to the accused's appropriate compensation should be provided to them.



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## Case of Khadijatul Kubra (Case Study 4.1)

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4. Charge Sheet
5. Complaint Letter
6. First Information Report (FIR)
7. Forensic Report
8. Seizure List

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2. Complaint letter
3. Defendant's statement (Interview)
4. First Information Report (FIR)
5. Interim Bail paper
6. Seizure list
7. Various court applications

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4. Prayed Remand Letter
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2. Charge sheet
3. Complaint Letter
4. Extraction Report
5. Interview Record
6. Mymensingh Session Judge's Order
7. Order for Magistrate's Record
8. Supreme Court's Order
9. UFED Report (Universal Forensics Extraction Device)

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No News Link is Available for this case.

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2. Complaint Letter
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4. Interrogation in jail gate permission letter

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2. Application to the Superintendent of Police
3. Charge Sheet
4. First Information Report (FIR)

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## Case of Imtiaz Ahmed Kajol

### Supporting Documents:

1. Application paper for shown arrest
2. Application paper of extending 15 days for investigation
3. Application papers of sending evidence and seeking permission to examine
4. Charge sheet
5. Complaint letter
6. Draft Map
7. First Information Report (FIR)
8. Forensic report
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10. Hearing paper of adding section 31 in the charge sheet
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12. Seizure list



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