



The Pre-Trial Friction: Re-evolving Sections 54 and 167 of the CrPC Against the Constitutional Guarantee of a Fair Trial

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Abstract

This qualitative doctrinal study critically investigates the constitutional compatibility of Sections 54 and 167 of the Code of Criminal Procedure 1898 with the fundamental guarantees of a fair trial enshrined under Part III of the Constitution of Bangladesh. Despite progressive judicial landmarks such as the mandatory guidelines established in Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh systemic implementation failures, executive overreach, and an overreliance on colonial-era policing models continue to severely undermine pre-trial rights. Investigating officers routinely circumvent statutory safeguards, while lower-tier magistrates frequently engage in mechanical rubber-stamping of remand requests, precipitating custodial abuses that violate constitutional prohibitions against arbitrary detention and torture. Employing a doctrinal and comparative legal framework, this research evaluates remedial insights from Indian and UK jurisprudence, focusing on statutory presumptions of liberty and rigorous procedural checks. Ultimately, the paper outlines a comprehensive structural reform blueprint for Bangladesh. It advocates for the institutional separation of investigation and prosecution, mandatory real-time digital case-tracking, immediate legal representation upon initial apprehension, and stringent judicial accountability to secure true adherence to the rule of law.

Keywords: Pre-trial Detention, Fair Trial Guarantee, Section 54 and 167 CrPC, Constitutionalism, Judicial Reform.

1. Introduction

The right to a fair trial, which is also called “fair administration of justice,” is one of the cornerstones of a democratic society abiding by the “rule of law” (Islam, 2012). Although the precise phrase “the right to fair trial” is missing from the preamble of the Constitution of Bangladesh, the framers intentionally included its core mechanism into Part III as the enforceable fundamental rights (The Constitution of the People's Republic of Bangladesh 1972). Rather than a single declaratory affirmation the Constitution raises a procedural safety net by Articles 27, 31, 33 and 35 confirming that the administration of justice is bound by equal protection and due process (Halim, 2026). It specifically guarantees one’s right to equality before law (Article 27), to enjoy the protection of the law, to be treated “in accordance with law” (Article 31), and to consult and be defended by a legal practitioner of their choice (Article 33). Predominantly, in Article 35, it has guaranteed certain rights which are the components of “right to a fair trial,” such as the right to “a speedy and public trial by an independent and impartial court or tribunal,” “right to be secured from double jeopardy,” right to no self-incrimination, and protection against “torture or cruel, inhuman, or degrading punishment or treatment”

An adversary criminal system, which Bangladesh adheres to, is based on the accusatorial method (Ubhayakar, 2011). Under this system, the charges against an accused are presented before an open court supported by evidence, which is subjected to challenge, and the proceedings are concluded by a reasoned judgment of the court (Ashworth & Horder, 2013). This means *ius puniendi*, “the right to punish,” rests firmly with the court when the guilt is proved beyond any reasonable doubt (Ashworth & Horder, 2013). Hence, the government has to play the key role of holding people accountable for the crimes they have committed and to ensure that justice is done and seen to be done not only from the victim’s side but also from the side of the accused (Halim, 2026).

Therefore, a government has a solemn responsibility to ensure “a fair administration of justice.” In the absence of explicit “right to a fair trial” in the Constitution does not mean people do not have the right, but it means there is no remedy if the right gets violated (Islam, 2012). Consequently, it is important to acknowledge “right to a fair trial” in the Constitution (Islam, 2012).

While Part III of the Constitution provides a robust theoretical framework for justice, the practical reality often tells a different story (Hossain, 2013). The constitutional promise of a fair trial is frequently compromised long before a case ever reaches the courtroom (Hossain, 2013). Specifically, the fundamental rights guaranteed under Article 35 are routinely undermined during the pre-trial phase due to systemic and structural flaws within the police investigation wings (Halim, 2026).

2. Objectives

This research paper has been conducted with the aim of achieving three primary objectives: firstly, to critically evaluate the constitutional compatibility of Sections 54 and 167 of the Code of Criminal Procedure, 1898, with the fundamental rights enshrined in Part III of the Constitution of Bangladesh; Secondly, to examine the procedural implementation gaps and tendencies to disregard the historic **BLAST** guidelines; and thirdly, to draw comparative lessons from the judicial systems of India and the United Kingdom in order to formulate a proposal for robust and structural reform of Bangladesh's pre-trial criminal justice system.

3. Research Methodology

This study primarily employs doctrinal and comparative legal research methods to conduct an in-depth analysis of Bangladesh's pre-trial criminal justice system:

a) Doctrinal Research (Primary and Secondary Analysis):

- **Legal Analysis:** A close examination has been conducted regarding Sections 54, 167, and 161 of the Code of Criminal Procedure (CrPC), 1898, and their constitutional

- compatibility with the fundamental rights enshrined in Part III of the Constitution of Bangladesh.
- **Analysis of Case Verdicts:** Various landmark judgments by the High Court—particularly those related to the *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh* case have been analyzed.
 - **Secondary Literature:** Various legal research articles, books, and annual reports from human rights organizations (such as Ain o Salish Kendra) published between 2020 and 2026 have been reviewed.
- b) **Comparative Legal Research:** Given the shared colonial legal history of Bangladesh and India, the judicial practices and experiences with legal reform in India (such as the *D.K. Basu v. State of West Bengal* and *Arnesh Kumar v. State of Bihar* cases) and the United Kingdom (the Bail Act 1976 and the Human Rights Act 1998) have been comparatively evaluated. Insights gained from this comparative analysis have been utilized to formulate a framework for reforming the judicial system in Bangladesh.

4. Literature Review

Between 2020 and 2026, institutional and theoretical discourse regarding pre-trial detention, custodial rights, and the excessive use of executive power in Bangladesh has evolved significantly. The contemporary literature produced during this period can be broadly categorized into five main sections:

- a) **Post-2020: Constitutionality and the Persistence of Colonial Structures:** Legal research published between 2020 and 2026 has re-evaluated the conflict between colonial-era criminal laws and modern constitutional protections. Scholars such as M. Jasim Ali Chowdhury (2022) have analyzed how provisions such as Section 54 (arrest without warrant) and Section 167 (police remand) of the Criminal Procedure Code of 1898 remain fundamentally incompatible with the personal liberty (Article 32) and protection from torture (Article 35) guaranteed in Part III of the Constitution of Bangladesh. Recent legal writings have emphasized that, despite the growth of democratic aspirations, the structural reliance on the colonial policing system continues to generate profound constitutional contradictions.
- b) **Fact Sheet on Human Rights Violations in Custody and the Gap in Implementation of the 'BLAST' Guidelines:** A major focus of the post-2020 literature is the persistent gap between the High Court guidelines and their implementation on the ground. Comprehensive and analytical monitoring reports published between 2020 and 2026 such as those by the Centre for Governance Studies (2022) and Ain o Salish Kendra (2024) demonstrate that the police force routinely bypasses mandatory arrest warrants or memos, fails to promptly notify families, and detains individuals without official documentation, operating with almost total lack of accountability.
- c) **Institutional stagnation and a lack of judicial oversight:** Scholarly commentary from the 2020–2026 period including the works of Naquib Muhammad Nasrullah (2021) and Omar H. Khan (2023) has attributed the ongoing pre-trial abuses primarily to two institutional failures: first, a severe lack of internal police accountability and the absence of clear legal penalties for violating *BLAST* guidelines; Second, the inaction of lower courts, where magistrates routinely seal or stamp printed police remand applications without verifying due process.
- d) **A Comparative South Asian Perspective on Pre-trial Detention:** Recent comparative legal literature (2020–2026) has increasingly evaluated how neighboring countries sharing common legal roots have addressed the complexities surrounding pre-trial detention. Researchers analyzing South Asian criminal procedure often examine how the Indian judicial system such as through the long-term impact of the *Arnesh Kumar v. State of Bihar* case provides an effective legal framework to curb arbitrary arrests for minor offenses and to impose mandatory standards of satisfaction upon magistrates.

- e) **Common Law Standards and Statutory Presumptions of Liberty:** Drawing on established common law frameworks (such as the UK's Bail Act 1976 and post-2020 assessments of the Human Rights Act 1998), recent comparative commentary highlights a strong legal presumption in favor of pre-trial liberty and the importance of immediate access to legal counsel at the police station (Jamila A. Chowdhury, 2025). The underlying theme of this literature is that, rather than granting law enforcement agencies unfettered discretion regarding pre-trial measures, the legal burden or the onus of proof should be firmly placed upon the State.

5. The Pre-Trial Reality

Systemic Flaws in Police Investigations: The independent, impartial and efficient judiciary is the very foundation for democratic development (Haider, 2018). In a democratic polity, the judiciary plays a vital role (Hoque, 2011). The integrity of the judicial system is central to the maintenance of a democratic society (Hoque, 2023). Through the judicial system, the rule of law is applied (Islam, 2012). Without an impartial judiciary, the democratic character of Bangladesh will be destroyed (Islam, 2012). However, the criminal justice system of Bangladesh by its very nature, has become excruciatingly slow and inefficient (Haider, 2018). At present there is an abnormal delay in litigations in Bangladesh, both in civil and criminal cases (Bangladesh Institute of Law and International Affairs [BILIA], 2022). The Criminal justice system is manifesting abnormal delays in litigation and huge pendency of cases in all courts from the sub-ordinate judiciary to the Supreme Court of Bangladesh (BILIA, 2022). Most importantly, the problem of delay in disposal of cases in Bangladesh is a highly complex problem in which many factors are involved which need to be addressed in phases (BILIA, 2022). In real sense, to ensure fair Justice, fair and impartial investigation of criminal cases is a critical milestone to achieve in Bangladesh (Halim, 2026). It is difficult to get development in criminal justice system, without ensuring a fair investigation (Halim, 2026). According to the law, the time that could be taken for the submission of investigation report is maximum of seven days (Code of Criminal Procedure 1898). The facts received about this shows that in 65.3% of the reports of the cases, it was submitted in exactly seven days, while in 34.7% of the cases the report was submitted before seven days (BILIA, 2022). In no cases among the courts selected for observation were incidents of investigation exceeding this seven day limit period (BILIA, 2022). So, it can be said that reports of investigation were submitted in court in accordance with the stipulated time limit of seven days set down by the court (BILIA, 2022).

6. Statutory Framework and Operational Mechanics of Police Investigations

Apart from maintaining law and order by engaging themselves in prevention of crime and enforcement of laws in some petty offenses, detection and investigation of crime, arrest of accused and collection of evidence are one of the major duties of the police force (Haider, 2018). Though separate judicial magistracy started its journey delayed, defective and biased investigation of crimes is one of the major stumbling blocks that cripple the criminal justice system (BILIA, 2022). However a police case which is also popularly known as general register case is set in motion by filing a First Information Report (FIR) concerning commission of cognizable offense to the officer in-charge of a police station (Section 154 of the Code of Criminal Procedure) (Code of Criminal Procedure 1898). A police officer may investigate any cognizable offense without the order of the Magistrate (Section 156 of CrPC) (Code of Criminal Procedure 1898). After recording the police case Officer in-Charge may himself investigate the case or instruct a police officer and not the below rank of Sub Inspector to investigate the same. In practice investigating officer inspects the place of occurrence, prepares the sketch map along with the index of the spot, records the statements of the witnesses who are supposed to be acquainted with the facts and circumstance of the occurrence (Section 161 of CrPC), seizes the seized articles (Alamat) and thus prepares the seizure list in presence of the witnesses (Section 103 of CrPC) (Code of Criminal Procedure 1898). Then arrests and tries to apprehend the accused and suspects and forwards them to the nearest Magistrate within 24 hours of their arrest (Article 33 of the

Constitution of Bangladesh; Code of Criminal Procedure 1898, s 167; Nari o Shishu Nirjatan Daman Ain 2000, s 22), detains and interrogates them in custody (remand) (Code of Criminal Procedure 1898, s 167), Produces the accused or victim before the Magistrate to have his/her confession/statement recorded (Code of Criminal Procedure 1898, s 164; Nari o Shishu Nirjatan Daman Ain 2000, s 22). Sometime they conduct the inquest report of the deceased for autopsy, collects medical certificates and expert reports, maintains diary of proceeding of investigation (Code of Criminal Procedure 1898, s 172), and submits the police report (Code of Criminal Procedure 1898, s 173). Police Regulations of Bengal (PRB) 1943 and the Code of Criminal Procedure 1898, or concerned special laws, Evidence Act 1872, constitution and precedents are the authority and guidelines to which the investigation officers must adhere to (Police Regulations of Bengal 1943; Code of Criminal Procedure 1898; Evidence Act 1872).

7. Procedural Friction and the Subversion of Statutory Time Limits

The Code of Criminal Procedure does not provide for any specific time limit within which investigation is to be completed (Code of Criminal Procedure 1898). However, there is a statutory indication in Section 167(1) that investigation is to be completed within 24 hours (Code of Criminal Procedure 1898). Further, Section 167(5) empowers the cognizance taking Magistrate or Judge to grant bail to the accused if investigation is not completed within 120 days (Code of Criminal Procedure 1898). Police regulations also state that even most difficult criminal investigation should not take more than 15 days if the investigation goes at stretch (Police Regulations of Bengal 1943, reg 261). Quite strangely, Criminal Investigation Department or Detective Branches, Rapid Action Battalion often take longer period in completing their investigation than the regular police force (BILIA, 2022). In practice, Investigating Officers do not record the statement while examining the witnesses but subsequently make a summary of what the witnesses said at the time of examination (Code of Criminal Procedure 1898, s 161). They prepare the record of those statements at their 'free time' (Code of Criminal Procedure 1898, s 161). As a result, many vital points are found to be missing in their recorded statements. The statements of witnesses these recorded cannot be used by the prosecution but can be used by the defense under Section 162 to contradict a prosecution witness in the manner provided by Section 145 of the Evidence Act 1872 (Code of Criminal Procedure 1898, s 162; Evidence Act 1872, s 145). Investigating officers have very little idea about the importance of statements made under Section 161 of CrPC (Haider, 2018).

8. Ground Realities, Systemic Deficiencies, and the Misuse of Sections 54 and 167 of the CrPC

Sometimes sketch map and index of the place of occurrence are prepared without clear specification. Also *alamat* are seized in the police station long after the occurrence which is produced by the informant. It is the duty of the police officer to seize *alamat* at the place of occurrence or hospital immediately after the occurrence (Code of Criminal Procedure 1898, s 103; Police Regulations of Bengal 1943, reg 243). A delayed seizure list at some other places other than the place of occurrence surely invites doubt. There is no need of recording the statement of informant during investigation (Code of Criminal Procedure 1898, s 154). However in many cases, investigation officers, record the statement of informant who himself is the victim (Code of Criminal Procedure 1898, s 154). There is also delay in collecting medical certificates and other expert reports.

Moreover, investigating officers sometimes do not send a case diary along with remand prayer (Code of Criminal Procedure 1898, s 167). As a result accused is sent to the Jail custody pending hearing of the remand prayer for some other date (Code of Criminal Procedure 1898, s 167). In this way, accused becomes acquainted with the hardened criminals in Jail custody and makes deliberate attempt to dodge the investigating officer even he/she is in remand in subsequent date (Code of Criminal Procedure 1898, s 167). Keeping the accused for long in police custody before being forwarded to the Magistrate for recording his/her confession under Section 164 of CrPC obviously destroys the

veracity of such confession (Code of Criminal Procedure 1898, s 164). Sometimes investigating officer submits final report on the plea of alibi of the accused. Informant and investigating officer being the same officer is also fatal to prosecution case.

There is no pre-trial conference of the investigating officer and public prosecutor and most of the investigation officers have no knowledge on law of evidence (Evidence Act 1872; Code of Criminal Procedure 1898, s 172). Investigating officers also feel reluctant to give testimony during trial, though court issues all possible processes (Evidence Act 1872; Code of Criminal Procedure 1898, s 172). Sometimes, during trial, there is no trace of investigating officer who has been transferred to some other places (Evidence Act 1872; Code of Criminal Procedure 1898, s 172).

The prime object of investigation is to detect the accused persons who have committed the offense. In this way investigating officer is to collect evidence to be used during trial. Therefore, a faulty investigation leads to miscarriage of Justice when there is faulty evidence. It is worth mentioning that investigation is the basic substratum upon which trial of criminal cases is founded. Reforms in the criminal Justice system should be initiated first at the investigating stage. This urgent need of reform is reflected in the observations of the Honorable High Court Division reported in *State v. Bangladesh* (2004, 4 MLR 87) thus:

“We have come across many cases in which due to faulty investigation accused get benefit of reasonable doubt in spite of consistent and uniform evidence of prosecution witnesses about the occurrence. As a result, people of Bangladesh have been losing faith in the present system of administration of Justice mainly due to the failure of the police to properly investigate the case and collect the evidence. It is high time that the system of the investigation of the criminal cases by the police alone should either be abandoned or completely reformed.”

However, without changing moral ethics in all the way of life, it remains highly improbable to resolve the manifold latches, problems and drawbacks of investigation wings to bring to light the true and fair investigation for ensuring opted Justice and Equity in fact (Haider, 2018). No telling to say that political influence, biasedness, corruption and moral defalcation, less competence of investigation, inadequate procurement and facilities to the investigation wings, lack of ICT and modern investigating training, having no awarding system to the best investigating officer and many more reasons chase the criminal Justice system about to bury in Bangladesh (Haider, 2018). In Bangladesh Global standard detective training academy, investigation officer training school should be established in no time to get the real taste, not the mockery in the name of trial, of Justice and Equity in Bangladesh (Haider, 2018).

Apart from this, crime, trial process and natural Justice are inter-connected terms with each other. More specifically, to ensure the best, appropriate and ultimate award “Punishment” to the criminals, the existing folded and unfolded problems in investigation wings of Bangladesh have to be erased and washed away for the sake of ensuring Justice and Equity within the broader criminal justice system. These structural deficiencies in investigative training are severely compounded by the broad, draconian statutory powers granted to law enforcement (Code of Criminal Procedure 1898, ss 54, 167; The Constitution of the People's Republic of Bangladesh 1972, art 31). Because investigating officers often lack advanced forensic capabilities, they frequently resort to the misuse of procedural laws to secure evidence (Code of Criminal Procedure 1898, ss 54, 167; The Constitution of the People's Republic of Bangladesh 1972, art 31). This overreliance on arbitrary arrests under Section 54 and prolonged police remand under Section 167 of the CrPC effectively punishes the accused before a trial even begins, completely destroying the “equality of arms” required for a fair trial (Code of Criminal Procedure 1898, ss 54, 167; The Constitution of the People's Republic of Bangladesh 1972, art 31).

9. The Gap Between Precedent and Practice: Non-Compliance with the *BLAST* Guidelines

Though the Higher Courts of Bangladesh state the fundamental rights clearly, a broad gap still remains about what the judges decide and what the police actually do on the grounds (Chowdhury, 2022). When looking at the historic High Court commands set in the landmark case of *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh*, the gap looks most clear (Centre for Governance Studies, 2022). It faced severe executive challenges continuously in the post-2020 landscape (*Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh*, Appellate Division digests, 2021). The Supreme Court tried to stop the misuse of Section 54 (arrest without a warrant) and Section 167 (police remand) in that time to protect citizens from executive overreach by creating strict rules (The Dhaka University Studies, 2023). These rules mandate that the Police Officers must show their official ID, write down clear reasons for an arrest without warrant, inform the family without any delay and avoid ignoble inquiry (Code of Criminal Procedure 1898, ss 54, 167; Centre for Governance Studies, 2022). Nevertheless, by the contemporary field reports and human rights studies published over recent years, it is clear that police officers often ignore these rules without facing any punishment for doing so (Ain o Salish Kendra, 2024). This happens because police departments lack internal accountability in their profession and having no clear statutory penalties for breaking the rules is the another reason of it (Nasrullah, 2021). The *BLAST* directives are still passive in everyday law enforcement practice (Nasrullah, 2021). Simultaneously, judicial monitoring highlights that Magistrates most often accept standard, pre-printed police remand requests without checking the notifications of the family by police or followed proper arrest court regulations (Khan, 2023). Consequently, the protection of citizens from police is broken at the police station rather than ensuring constitutional rights which feel like empty promises (Jamila A. Chowdhury, 2025).

10. International Standards and Fundamental Protections in Pre-Trial Detention

The prohibition on arbitrary arrest and detention is a key part of human rights (Universal Declaration of Human Rights 1948, art 9; International Covenant on Civil and Political Rights 1966, art 9). The Government continued to arrest and detain persons arbitrarily, and to use the Special Powers Act 1974 and Section 54 of the Code of Criminal Procedure, which allow for arbitrary arrest and preventive detention (Special Powers Act 1974; Code of Criminal Procedure 1898, s 54; Public Safety Suppression Act 2000; *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh*, 2016). The Public Safety Act 2000, enacted in early 2000, gives the police even greater opportunity to abuse their powers (Special Powers Act 1974; Code of Criminal Procedure 1898, s 54; Public Safety Suppression Act 2000; *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh*, 2016). The Constitution states that each person arrested shall be informed of the grounds for detention, provided access to a lawyer of his choice, brought before a magistrate within 24 hours, and freed unless the magistrate authorizes continued detention (The Constitution of the People's Republic of Bangladesh 1972, art 33(1)).

However, the Constitution specifically allows preventive detention, with specified safeguards, outside these requirements (The Constitution of the People's Republic of Bangladesh 1972, art 33(2)). Every citizen has the right to a prompt appearance before a judge to challenge the lawfulness of arrest and detention (The Constitution of the People's Republic of Bangladesh 1972, art 33(1)-(2); International Covenant on Civil and Political Rights 1966, art 9(3)-(4)). This ensures the right of anyone deprived of liberty by arrest or detention to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful (The Constitution of the People's Republic of Bangladesh 1972, art 33(1)-(2); International Covenant on Civil and Political Rights 1966, art 9(3)-(4)).

The prohibition of torture and the right to humane conditions during pretrial detention is also a human rights protection (The Constitution of the People's Republic of Bangladesh 1972, art 35(5); Convention against Torture 1984, art 10). According to Article 35(5) of the Constitution - No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment (The Constitution of the People's Republic of Bangladesh 1972, art 35(5); Convention against Torture

1984, art 10). Moreover, taking into account the harsh reality of violence in police custody, the High Court emphasized in the case of *State v. Inspector-General of Police (Breach of Human Rights Cases)* (2003, 55 DLR (HCD) 363) that detaining individuals in police custody—isolated from the outside world—and the use of physical force constitute a gross violation of the fundamental protections guaranteed under Article 35(5) of the Constitution.

Furthermore, the law strictly prohibits incommunicado detention (*State v. Inspector-General of Police, Breach of Human Rights Cases*, 2003). Ultimately, the right to get a fair trial is an essential right of every accused (Islam, 2012; Ashworth & Redmayne, 2010). The concept of fair trial brings confidence in the public and the people start to believe in the judiciary (Islam, 2012; Ashworth & Redmayne, 2010). It is necessary to follow every abovementioned aspect in order to ensure that the trial is free from biases (International Covenant on Civil and Political Rights 1966, art 14). These rights are not just domestic rights but also the various international conventions guarantee these rights (Universal Declaration of Human Rights 1948, art 10; International Covenant on Civil and Political Rights 1966, art 14). Thus the concept of a fair trial is an essential aspect of every proceeding (Universal Declaration of Human Rights 1948, art 10; International Covenant on Civil and Political Rights 1966, art 14).

11. Comparative Perspectives: Lessons from Indian and UK Jurisprudence on Pre-Trial Safeguards

Bangladesh and India share the exact same colonial background specially the Code of Criminal Procedure 1898 and the Police Regulations of Bengal 1943. But India handles the issues proactively which is very insightful to us. The Supreme Court of India exactly faced the same issues with police abuse and then created strict, mandatory rules to stop unfair arrests. The landmark case of *D.K. Basu v. State of West Bengal* (1997) is the best example by which the Indian Supreme Court set up a strict checklist for police. The rules include wearing ID badges, writing down arrest memos, informing family members without delay and giving medical checkups to the people in custody (*D.K. Basu v. State of West Bengal*, 1997). Later, in the case of *Arnesh Kumar v. State of Bihar* (2014) the court mandated that police should not arrest suspects automatically in the minor cases. Alike, Magistrate must carefully check if an arrest is truly necessary or not before locking someone up (*Arnesh Kumar v. State of Bihar*, 2014).

Beyond South Asia, comparing with the system between Bangladesh and United Kingdom (UK), UK shows a mature legal system and enforces strict rules to protect pre-trial freedom. Under the UK's Bail Act 1976, the law strongly presumes that a person should stay free before their trial (Bail Act 1976). If someone needs to be locked up, the burden will be putting on the government to prove the wrongdoing (Bail Act 1976). Also, under the UK Human Rights Act 1998, detainees have the right to a lawyer immediately from the moment they are caught and the law directs the time limit to prevent the police from holding people indefinitely (Human Rights Act 1998). By looking at both UK and India, it is seen that colonial history is almost same like ours with similar police problems. However, modern democratic countries protect citizens by enforcing strict legal limits rather than giving police unlimited power.

12. Recommendations

To rectify Bangladesh's judicial system and ensure the implementation of constitutional rights, mere piecemeal or minor amendments are insufficient. What is required is comprehensive and structural reform, grounded in the following principles:

1. **Structural Separation of Investigation and Prosecution:** The functions of general law enforcement and criminal investigation must be completely separated. An independent

- investigative wing needs to be established to eliminate institutional bias or conflicts of interest.
2. **Codifying court verdicts and directives into law:** The directives derived from the historic *BLAST v. Bangladesh* judgment and international standards must be directly incorporated into the Code of Criminal Procedure (CrPC). There must be provisions for clear and stringent legal penalties for officials who fail to comply with this rule.
 3. **Digital preservation of case diaries and records:** Moving beyond the era of traditional or manual paperwork, it is essential to implement a real-time and secure digital case tracking system. This would eliminate any scope for altering dates or tampering with records, while ensuring the accurate logging of timings for remands or the recording of testimony.
 4. **Modern forensic laboratories and professional training:** Police personnel must be steered away from the culture of relying on physical force or coercion. To achieve this, it is essential to establish world-class detective training academies and modern regional forensic laboratories, enabling them to gather evidence through scientific methods.
 5. **Strict oversight and accountability at the magistracy level:** During remand hearings, magistrates must stop blindly accepting applications—whether fabricated or pre-printed—submitted by the police. Instead, they must demonstrate the courage to speak directly with the detainee, check for signs of physical abuse, and reject the application if necessary.
 6. **Right to legal counsel immediately upon entering the police station:** The right to legal assistance must be ensured from the very moment a person is detained at the police station. This will significantly reduce the scope for extracting forced confessions while the detainee is held in isolation (misuse of Section 164) or for police harassment.
 7. **Evaluation based on integrity and scientific investigation:** Provisions must be made for incentives, favorable performance evaluations, and promotions for police officers who investigate cases with complete professionalism and scientific methods, avoiding arbitrary arrests under Section 54 or the use of force.

13. Conclusion

Ultimately, the crisis of pre-trial detention in Bangladesh is not merely a routine error in criminal law or procedure; it is, at its core, a profound moral question concerning the fundamental structure of a modern democratic state. When repressive laws from the British era rather than modern rights protections are employed as the primary tools for combating crime, the mutual bond of trust between the state and its citizens is shattered. No matter how noble the promises enshrined in the Constitution may be, if those rights vanish the moment one enters a police station or custody, the Constitution is reduced to a mere ornament, existing only on paper. Genuine judicial reform is impossible without the collective goodwill of every organ responsible for state governance. A state's strength does not lie in the power to easily imprison individuals; rather, its true strength depends on how committed it is to safeguarding the dignity and liberty of every ordinary citizen caught up in the legal process. Only by breaking the chains of colonial-era police mentality and giving top priority to human rights can Bangladesh establish a just and true rule of law.

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