

Serial No.	Date order of proceeding	Order with signature of the court of ADJ-III, Dhanbad S.T. - 15/2021 (Misc. Criminal Application No.-136/2021)	Office notice taken with date
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	13.01.2021	<p style="text-align: center;">Misc. Criminal Application No.-136/2021 <u>CNR No. JHDH01-000358-2021</u></p> <p>Abdullah Sudiana @ Abdulloh Sudiana & Ors.....Petitioners</p> <p style="text-align: center;"><i>Versus</i></p> <p>State of Jharkhand.....Opp. Party</p> <p>Counsel for the petitioners: Anwar Hussain, Ld. Adv. Sahbaz Abdul Malik, Ld. Adv.</p> <p>Counsel for the State : P.P. Pandey, Ld. APP</p> <p>Online attendance has been filed on behalf of the accused persons 1. Abdullah Sudiana @ Abdulloh Sudiana 2. Nasruddin 3. Satria Adiputra @ Satria Bayu Adiputra 4. Muhamad Yusuf Inskandar @ Muhamad Yusuf Iskandar 5. Muhammad Risky Hidayah @ Muhammad Rizky Hidayah 6. Taufique Sagla Lababa @ Taufik Sagala Lababa 7. Akhmadh Hamzah 8. Ahmad Onte 9. Undag Superman @ Undang Suparman 10. Andhika Fahmi 11. Md. Jaffar Islamuddin Munsu Ishaque 12. Masood Khan.</p> <p>Case is fixed today for hearing on the point of charge but in the mean time the petition filed through drop box and registered as MCA No.-136/2021 filed on behalf of above name accused persons has been placed on record u/s 227 r/w 228 of the Cr.P.C. for making discharge of the accused persons from the offences u/s 175/176/188/269/270/271 r/w section 34 IPC and Section 14B/14C/13 for Foreigners Act and section 3 of Epidemic Diseases Act 1897. Copy of this petition has been served upon the ld. Public prosecutor.</p> <p>In this case there is direction of Supreme Court of India</p>	

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	Cont... 13.01.2021	<p>offered shelter by secretary and president of the mosque but no information was given to local police and thereafter the petitioners were send to PMCH for Corona Test and were quarantined in the isolation ward in ISM Dhanbad and thereafter SDE No. 04/2020 dated 26.03.2020 was registered and their passport, mobile phones were seized. It is further submitted that though cognizance u/s 13/14B/14C of the Foreigners Act has been taken but section 13 is not a penal provision and no violation of section 14B and 14C being the penal provisions has been made and on that score no charge can be framed u/s 13. He also argued that there is no material to frame valid charges u/s 14B/14C of the Act as section 14 deals with penalty for using forged passport and where as section 14C provides for abatement of the offence but none of the passport seized have been found forged. Regarding other allegations of violation of direction of Central Govt./State Govt. during lock down, ld. Counsel submitted that the petitioners had come to India on tourist Visa but all of a sudden on announcement of lock down they remain stayed in mosque, never committed or abetted any act of violence against the health care service personnel or cause damaged or loss to any property and similarly no offence u/s 175, 176, 188, 269, 270 and 271 r/w 34 IPC is made out but the police official arrested them and remanded in judicial custody. He submitted that on the other hand the petitioners while reaching Dhanbad being the mandatory provision under the Foreigners Act they already reported about their presence being the Indonesian citizens to SSP Dhanbad on 01.03.2020 on writing that they will</p>	

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	Cont... 13.01.2021	<p>period which may extend to 5 years and shall also be liable to fine. Section 14A deals with penalty for entry in restricted areas prescribing punishment not less than 2 years but may extend to 8 years with fine. Section 14B deals with penalty for using forged passport prescribing punishment not less than 2 years but may extend to 8 years with fine and Section 14C deals with penalty for abatement for offence punishable u/s 14 or 14A or 14B prescribing similar punishment.</p> <p>In the present case cognizance has been taken u/s 14B/14C/13 of The Foreigner Act also, but from the investigation no material/evidence has been brought that accused petitioner No.1 to 10 who are Indonesian Citizens entered into the territory of India on the basis of forged passport. Section 14B specifically states about penalty for using forged passport.</p> <p>So far as section 14C of the foreigners Act is concerned, it deals with penalty for abatement for any offence u/s 14 or 14A or 14B. This section appears to have been alleged against two Indian Nationals as accused petitioner No.-11 & 12 acted as guide of Indonesian Citizen. In this section the word “Whoever” has been included which may include any person other than the foreigner in abating any act in violation of section 13/14A/14B. But nowhere in the investigation it has brought that entry in India has been made by the Indonesian Citizen (Petitioner No.-1 to 10) on the basis of forged passport in which the petitioner No.-11 & 12 had any role of abatement of such act. In seizure list, original passports of petitioner No.-1 to 10 on tourist Visa is mentioned and during investigation</p>	

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Schedule XLII---High Court (J) 9a [Old (M) 164.]

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