

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No. 1659 of 2018

With

I.A. No. 2199 of 2020

1. Som Marandi aged about 52 years S/o Late Dorga Marandi
2. Vivekanand Tiwari, aged about 48 years, S/o Late Jagdish Prasad Tiwari
3. Amit Agrawal aged about 47 years, S/o Sri Shankar Prasad Agrawal
4. Hisabi Rai, aged about 42 years, S/o Late Shibu Rai
5. Sanchay Bardhan @ Sanchay Kr. Bardhan aged about 62 years, S/o Late Shambhu Nath Bardhan
6. Anugrah Prasad Sah @ Anugrahit Pd. Sah aged about 56 years, S/o Late Ganga Dayal Sah Petitioners

Versus

The State of Jharkhand Opposite Party

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioners	: Mr. Rajeeva Sharma, Senior Advocate Mrs. Rita Kumari, Advocate
For the Opposite Party	: Mr. Rakesh Kumar Sinha, A.P.P.

8/16.04.2020

1. Heard Mr. Rajeeva Sharma, learned senior counsel appearing on behalf of the petitioners.
2. Heard Mr. Rakesh Kumar Sinha, learned A.P.P. appearing on behalf of the State.
3. I.A. No. 2199 of 2020 has been filed for suspension of sentence/for grant of bail to the petitioners during the pendency of this case.
4. This revision has been filed for setting aside the judgment dated 16.08.2018 passed by learned Sessions Judge, Sahibganj in Criminal Appeal No. 40 of 2017 whereby the learned Court dismissed the appeal confirming the judgment dated 18.08.2017 passed by Sri Anand Mani Tripathi, Railway Judicial Magistrate, Sahibganj in Railways Act Case No. 380 of 2012, T.R. No. 15 of 2017 convicting and sentencing the petitioners to undergo S.I. for a period of 1 year each for the offence under Section 174 (a) Railways Act.
5. Learned counsel for the opposite party at the outset submits

that the matter arises out of a complaint case filed by an officer of Railways and accordingly Railway is a necessary party.

6. Upon this, learned counsel for the petitioners submits that he may be permitted to add Eastern Railways through the General Manager, having his office at Howrah, West Bengal as opposite party No. 2 in this case. He also submits that there are standing counsels in the High Court representing Railways and serve two copies of the present petition upon the standing counsel for railways and file a receipt of the same once lock down under the COVID-19 pandemic is over. He also undertakes to make necessary correction in the cause title of the present case.
7. Learned counsel for the petitioners submits that the learned courts below have not properly considered the case of the petitioners under the provisions of Probation of Offenders Act while passing the sentence. He submits that entire act of the petitioners was peaceful and there has been no damage to any railway property in the protest. Learned counsel also submits that the learned court below has not taken into consideration the provisions of Section 179(2) of the Railways Act, 1989. Learned counsel submits that the petitioners have been convicted only for a period of one year under Section 174(a) of the Railways Act and they may be enlarged on bail during pendency of the present case. He further submits that the petitioners shall abide by any condition that may be put by this court including any contribution in '*Prime Minister's Citizens Assistance and Relief in Emergency Situations (PM CARES) Fund*' created for the purposes of dealing with COVID-19 Pandemic and accordingly the learned counsel submits that the petitioners are ready to deposit Rs. 35,000/- each in the *Prime Minister's Citizens Assistance and Relief in Emergency Situations (PM CARES) Fund*. He submits that the petitioners may be enlarged on personal bond considering the situation of lock

down under COVID-19 pandemic.

8. Learned counsel for the petitioners submits that he is ready for final hearing of this case upon resumption of regular functioning of this court after Covid-19 pandemic.
9. Counsel appearing for the State opposes the prayer made by learned counsel for the petitioners.
10. After hearing counsel for the parties and considering the facts and circumstances of this case this court finds that the points raised by the petitioners are required to be considered.
11. Admit.
12. Lower court record has already been received.
13. The counsel for the petitioner is permitted to add Eastern Railways through the General Manager, having his office at Howrah, West Bengal as opposite party No. 2 in the cause title and file receipt of service of two copies of the main petition upon standing counsel for railways prior to the next date i.e 8.7.2020.
14. Pending hearing of this case, the sentence of the petitioners is hereby suspended and the petitioners are directed to be enlarged on bail in connection with Railways Act Case No. 380 of 2012., T.R. No. 15 of 2017, upon furnishing personal bond up to the satisfaction of learned Trial Court considering the lock down under pandemic Covid-19, on the following conditions:
 - (i) The petitioners shall show proof of payment of Rs. 35,000/- (Thirty Five thousand) each in the '*Prime Minister's Citizens Assistance and Relief in Emergency Situations (PM CARES) Fund*' before the learned court below prior to their release.
 - (ii) The petitioners shall download the '*Aarogya Setu App*' immediately after being released from custody and shall abide by the directions of the Central Government as well as State Government issued in connection with containment of Covid-19 pandemic.

(iii) The petitioners will submit self attested copy of their Aadhar Card and also give their mobile number before the learned court below which they will not change during the pendency of this case without prior permission of this court.

(iv) I.A. No. 2199 of 2020 is disposed of.

15. Considering the submissions made, post this case on **08.07.2020** under appropriate heading .

(Anubha Rawat Choudhary, J.)

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