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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1007/2015 & Crl. M.A.11259/2015

HARSHITA SINGH SULTANIA

..... Petitioner

Through: Mr.Vikas Mehta, Mr. Varun Singh
and Mr. Manish Agarwal, Adv.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Richa Kapoor, ASC for the State
with SI Shankar Lal Kardam, PS Vivek Vihar
Ms. Monika Arora, CGSC with Harsh Ahuja, Adv.
for R-4/UOI
Mr. Shashi Shaekar, Mr. Satish Mishra and Ms.
Nisha, Adv. For R-5

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **10.08.2015**

The present writ petition has been filed by the wife of the respondent No.5 seeking directions to respondents No.1, 2 and 3 to serve notice on respondent No.5 regarding his appearance before Crime Against Women Cell, East District on 12.5.2015.

The additional prayer in the writ petition is that the respondents No.1 to 4 be directed to ensure that respondent No.5 does not flee the country pending inquiry on the complaint of the petitioner.

When this writ petition came up for hearing, notices were issued on 10.07.2015 to respondents No.1, 2 and 3 which was accepted by Ms. Richa

Kapoor, learned Additional Standing Counsel.

Considering the apprehension of the petitioner that respondent No.5 might flee from the country since he had been manoeuvring for obtaining visa on his passport, the respondents No.1, 2 and 3 after enquiry from the Ministry of External Affairs directed the respondent No.5 to submit/surrender his passport.

It has been pointed out by the learned counsel for the petitioner that while moving his application for anticipatory bail, respondent No.5 was directed to deposit his passport with the Investigating Officer who was investigating the case. Later the application filed by respondent No.5 was withdrawn and another application was filed seeking pre arrest bail.

By order dated 23.6.2015 passed in Bail Application No.5199/2015 the Additional District & Sessions Judge, Shahdara, keeping in mind that the dispute was basically in the nature of matrimonial discord between the petitioner and respondent No.5 referred the matter to the Mediation Centre of Karkardooma Courts.

The stand of respondent No.5, before the Court below was that his passport was lying with the U.S Embassy. He was, therefore, directed to produce the receipt of the deposit of the passport with US Embassy with the IO concerned within three days.

Finally, by the order dated 30.6.2015, Bail Application No.5199/2015 was rejected as being not maintainable and premature. However, the I.O. was directed to serve 5 days notice on respondent No.5 in case permission to

arrest him was received by the concerned police officer. The respondent No.5 was noticed by the police and he has joined the investigations thereafter.

This stand of the respondent No.5, alerted the petitioner, leading to the filing of the present petition.

During the pendency of this writ petition respondent No.5 preferred an application (Crl.M.A No.11259/2015) seeking release of his passport as the same was taken by the respondent authorities pursuant to the notice having been issued to them in the present writ petition. It was submitted by respondent No.5 (the applicant) that he is ready and willing to give an undertaking before the Court concerned with a copy of the same to the IO, that he shall not leave the country without taking prior permission of the concerned Court and without intimating the IO. It has also been submitted that though visa for three years has been granted to the applicant, it has become meaningless as he has lost his job in the US.

Learned counsel for the petitioner still has apprehension that respondent No.5 would not be available for facing trial.

Considering the stand of respondent No.5, viz. his readiness to give the undertaking as aforesaid, this Court is inclined to direct the respondent authorities to return the passport to respondent No.5.

Ms. Richa Kapoor, learned Additional Standing counsel, after consulting the officer attending the Court in this matter, returned the passport to respondent No.5, in Court, which has been accepted by him, in presence of his counsel.

The respondent No.5, is directed to file such undertaking within a week, before the Court concerned. The undertaking of the petitioner would be signed by the father of the petitioner, who is a government servant, as a witness therein, and he too, would be bound by such undertaking.

In case the petitioner flouts the undertaking, the concerned Court would be at liberty to take necessary coercive action to ensure the presence of the petitioner.

The Crl.M.A No.11259/2015 is disposed of in terms of the aforesaid.

Since the grievance of the petitioner stands redressed, writ petition No.1007/2015 is also disposed of in terms of the aforesaid directions.

ASHUTOSH KUMAR, J

AUGUST 10, 2015

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