

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.1597 of 2017

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for respondent No.3.

Since it is submitted that there is absolute urgency in the matter, the notice to the fourth respondent is dispensed with and the matter is disposed of with the consent of the parties.

The case of the petitioner is that he is resident of Washington DC, USA, since 2006 and he was residing there due to his employment. It appears that the fourth respondent and his father entered into partnership and were doing business since 2015. The fourth respondent appears to have caused loss to the firm and an amount of nearly Rs.40.00 lakhs was due. The father of the petitioner lodged a complaint before the third respondent and Crime No.6 of 2017 was registered on 02.01.2017 under Section 379 IPC and as a counter blast to the same, the fourth respondent lodged a complaint with the third respondent. The third respondent thereupon issued a notice under Section 41A on 06.01.2017, arrested the petitioner on 11.01.2017 and released him on bail on furnishing surety and on execution of personal bond. The petitioner states that the third respondent highhandedly forced the petitioner to surrender the original Passport while releasing him on bail. The third respondent approached the learned IV Additional Chief

Metropolitan Magistrate on 11.01.2017 for issuance of Non Bailable Warrant against the petitioner and the said Court refused to consider the said application since the offence was a bailable offence. The petitioner further states that he came to Hyderabad along with his family on 27.11.2016 to spend Christmas holidays with his parents. He is supposed to report to duty on 21.01.2017 and he booked round ticket to leave the country on 19.01.2017 in order to report for duty on 21.01.2017. He states that the present crime was registered by the fourth respondent in order to settle scores with the father of the petitioner. He undertook to cooperate with the prosecution and agreed to appear before the trial Court in the event his presence is required. Challenging the seizure of the Passport, the present Writ Petition is filed.

The case was taken up yesterday as a lunch motion and is adjourned to today for getting instructions by the learned Government Pleader.

The learned Government Pleader produced before this Court the personal bond executed by the petitioner which states that he would stay in Hyderabad and voluntarily surrendering the original Passport.

The third respondent as well as the petitioner are present before this Court. The petitioner states that the said personal bond was taken by the third respondent forcibly and he is

willing to execute any indemnity bond for his presence, in the event of requirement of his personal presence.

Learned Government Pleader, on the basis of instructions, submits that the Passport will be handed over to the petitioner, provided the petitioner executes necessary indemnity bond and furnishes a copy of the Passport along with the indemnity bond clearly mentioning the address of his residence in the United States.

In the circumstances, the Writ Petition is disposed of directing the third respondent to release the Passport of the petitioner with the condition that the petitioner shall cooperate with the investigation of the crime and shall be present as and when required by the Police in the event of a charge sheet being filed against the petitioner. Since the offence relates to the use of abusive language regarding the family and religious faith of the fourth respondent, the petitioner is restrained from misusing the freedom of expression in any manner till the conclusion of the case.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.01.2017
vs