

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11803 OF 2017

ORDER:

This Criminal Petition is filed to return the passport of the petitioner-A.1 deposited pursuant to the orders dated 24.07.2017 passed in Crl.M.P. No.2356 of 2017 on the file of the I Additional Metropolitan Sessions Judge, Hyderabad. The petitioner-A.1 sought indulgence of this Court under Section 439(1) Cr.P.C. for return of the passport by filing an affidavit.

2. Heard Sri Venugopal, learned senior counsel representing Sri Ch.Siddhartha Sarma, learned counsel for the petitioner-A.1, and learned Additional Public Prosecutor appearing for the respondent-State, apart from perusing the material available on record.

3. Sri Venugopal, learned senior counsel for the petitioner-A.1 would submit that the petitioner was granted bail, *vide* orders dated 24.07.2017 in Crl.M.P. No.2356 of 2017, by the learned I Additional Metropolitan Sessions Judge, Hyderabad in Crime No.65 of 2017 of Station House Officer, Prohibition and Excise Station, Secunderabad, and imposed certain conditions and the petitioner-A.1 complied those conditions; later, the condition relating to attending before the concerned S.H.O. was relaxed, *vide* orders dated 07.10.2017 in Crl.M.P. No.3164 of 2017 by the learned I Additional Metropolitan Sessions Judge, Hyderabad; the petitioner-A.1 is an innocent person and falsely implicated in this case; the petitioner-A.1 hails from a well educated family, completed Degree in Aerospace Engineering and worked in NASA, United States of America for some time and returned back to India; incidentally, the petitioner-A.1 developed Hi-tech

Rickshaws and also developed Mobile Apps; the petitioner-A.1 appeared for GMAT Examination and secured 96% marks and applied for higher studies, i.e., to prosecute Masters Degree in Business Administration in HEC, Paris; the petitioner-A.1 has to join the said course which is commencing from 04.01.2018; pursuant to his bail order, the petitioner-A.1 deposited his passport bearing No.433486870; the passport is required to prosecute further studies; unless the passport is returned, he cannot go to Paris to get the Degree in Post Graduation in Business Administration, it is a prestigious institution and it would be his lifetime achievement; the proposed course is a 16 months course; one Ritul Agarwal-A.2 played mischief and implicated the petitioner-A.1 in this case; the petitioner-A.1 is ready to abide by any conditions; the petitioner/his parents have got immovable properties; the petitioner-A.1 undertakes to come to India as and when required to proceed with the trial of the case; and ultimately, prayed to return the passport.

4. On the other hand, learned Additional Public Prosecutor appearing for the respondent-State opposed to return the passport of the petitioner-A.1 stating that once the petitioner is given passport, he will flee from India and he would not return back and the trial in the criminal case cannot go on; there are grave allegations/accusations against the petitioner-A.1; and ultimately, prayed to dismiss the petition.

5. In the course of submissions before this Court, it is brought to the notice of the Court that I Additional Metropolitan Sessions Judge, Hyderabad, by order dated 23.11.2017 in Crl.M.P. No.3656 of 2017, declined to return the passport. The petitioner-A.1 has filed material papers to show that he secured seat in Business

Administration in HEC, Paris. The course is commencing from 04.01.2018. The petitioner-A.1 has filed his Aadhar card copy and other documents to show his nativity, etc. The petitioner-A.1 is a permanent resident of Padmaraonagar, Secunderabad, Hyderabad. The petitioner is arrayed as Accused No.1 in the criminal case. The allegation is that he developed one Mobile App and that has become the root cause of his alleged involvement in this crime. It is established from the record that the petitioner-A.1 is a meritorious student, aged 28 years, worked in NASA, United States of America for some time and returned back to India. At this stage, there is only an accusation with regard to the petitioner's involvement in the offence under Section 8(c) r/w Sections 22(C) & 20(b)(ii) of the Narcotic Drugs Psychotropic Substances Act, 1985. The allegations are required to be established after due trial. In view of the nature of the allegations leveled against him, the petitioner-A.1 shall not be denied his right to pursue higher education. A fair opportunity is required to be given to the petitioner-A.1 to prosecute his studies without any hindrance to the trial of the case.

6. Under these circumstances, the passport of the petitioner-A.1 is ordered to be returned to him forthwith, subject to the petitioner-A.1 executing a personal bond for a sum of Rs.50,00,000/- (Rupees fifty lakhs only) and offering bank guarantee for the said sum of Rs.50,00,000/- and further, one of the parents of the petitioner-A.1 shall stand as surety and provide surety bond for like sum, i.e., Rs.50,00,000/- (Rupees fifty lakhs only) to the satisfaction of the Additional Metropolitan Sessions Judge, Hyderabad, for the release of the passport of the petitioner-A.1. Further, it is made clear that the

petitioner-A.1 shall attend before the trial Court as and when required.

If he absents continuously on three dates of hearing before the trial Court, the bank guarantee and surety offered in this case stands forfeited without any notice.

7. Accordingly, this Criminal Petition is allowed.

Dr. SHAMEEM AKTHER, J

Date: 18-12-2017

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HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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Crl.P. No. 11803 OF 2017

Date: 18-12-2017

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