

Nimmagadda Upendranath vs Union Of India & Anr on 29 December, 2021

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (CRL.) 2609/2021

NIMMAGADDA UPENDRANATH

..... Petitioner

Through: Mr.Mayank Jain, Advocate with
petitioner in person through VC

versus

UNION OF INDIA & ANR.

.....

Through:

Mr.Anurag Ahluwalia, CG
Mr.Danish Faraz, Advoca
Mr.Mahfooz A.Nazki, Sta
Counsel for R-2 .

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 29.12.2021 (Through video conferencing) The petitioner who is stated to be at the Immigration Centre of the Indira Gandhi International Airport, has also joined the proceedings through video conferencing.

The petitioner vide the present petition seeks a declaration that the action of the respondent No.1 detaining him and preventing him from clearing the immigration into India is violative of Article 19 and 21 of the Constitution of India and apart from the same seeks the declaration of the issuance of the Look Out Circular against him as being contrary to law apart from seeking the quashing of the said Look Out Circular.

Inter alia, it is prayed on behalf of the petitioner that pending disposal of the writ petition, the Look Out Circular issued against him be suspended and he be released from detention of the respondent No.1 forthwith.

The respondent no.2 as per the averments in the petition has lodged an FIR bearing No. 85/2021 against the petitioner and other members of NRIAS which is registered at Mangalagiri (R) P.S. Guntur, District, Andhra Pradesh. It has been submitted on behalf of the petitioner whilst placing reliance on the proceedings dated 27.4.2021 in Crl. Petition No. 2624/2021 wherein in relation to the said FIR No. 85/2021, Mangalagiri (R) P.S. Guntur District, it had been ordered by the Hon'ble

High Court of Andhra Pradesh at Amaravati to the effect:

"In view of the directions of this Court in Crl.P.No. 2571 of 2021 dated 26.04.2021, there, shall be an interim direction permitting the investigation in FIR No. 85 of 2021 may go on. However, no coercive steps against the petitioner herein until further orders. The petitioner shall cooperate with the investigation and appear before the authorities upon proper written summons being given to the petitioner.

Post on 07.05.2021."

In reply to a specific Court query, it is submitted by the learned counsel for the petitioner that after the date of hearing 7.5.2021 the proceedings have yet to be listed before the Hon'ble High Court of Andhra Pradesh at Amaravati.

It has thus been submitted on behalf of the petitioner that in view of the order dated 27.4.2021 in Crl. Petition No. 2624/2021 of the High Court of Andhra Pradesh at Amaravati, the very issuance of the Look Out Circular against the petitioner is in flagrant violation of the law.

On behalf of the respondent No. it has been submitted that the Look Out Circular against the petitioner has been issued only at the request of the respondent No.2, i.e., the State of Andhra Pradesh.

Learned Standing Counsel for the respondent No.2 submits that the Look Out Circular had only been issued in as much as the respondent No.2 was clueless about the whereabouts of the petitioner and all that the respondent No.2 seeks is to serve the requisite notice under Section 41 A of the Cr.P.C., 1973 to the petitioner and that the respondent No.2 has no intent whatsoever to initiate any coercive action presently against the petitioner.

It is submitted on behalf of the respondent No.2 by the learned Standing Counsel for the respondent No.2 that vide order dated 7.5.2021 in the said Crl.Petition No. 2624/2021, in view of the submissions made on behalf of the respondent No.2 qua the aspect of requirement of the petitioner herein apart from other co-accused for investigation in the matter it had been directed to the effect:

" Accordingly, the investigating officer may call for the presence of the petitioners by way of a written notice with a minimum time period of seven days being granted for such appearance. The investigating officer may also consider the fact that these petitioners are presently needed for an effective response against the covid pandemic before issuing any notice."

and it has thus been submitted on behalf of the respondent No.2 that in view of the said directions, the respondent No.2 seeks to serve the notice under Section 41A of the Cr.P.C., 1973 on the petitioner.

It is submitted on behalf of the petitioner and on behalf of the respondent No.2 that the matter is now yet to be listed before the Hon'ble High Court of Andhra Pradesh.

It has been submitted on behalf of the petitioner that the petitioner being an aged person having travelled from Chicago to Delhi, needs to avail of some rest and seeks that he be allowed to move out from the immigration of the IGI Airport to the Novatel Hotel at the Aerocity, New Delhi, where he would be available to be served with the notice under Section 41 A of the Cr.P.C., 1973 to be served on him by the respondent No.2.

In these circumstances, without any observations on the merit or demerits of the petition, the W.P.(Crl.) 2609/2021 as well as qua the prayer clauses a, b, c therein and the submissions made on behalf of the respondent No.1 that in view of the submissions made on behalf of the respondent No.2 and the petitioner presently the Look Out Circular dated 22.07.2021 issued against the petitioner may be suspended with the petition being kept pending so that the respondent No.1 can also ascertain all facts in the matter, till the date 11.1.2022. the Look Out Circular dated 22.07.2021 issued by the respondent No.1 against the petitioner at the request of the respondent No.2 is suspended and the petitioner is allowed to be released from the detention of the respondent No.1 subject to the conditions that the petitioner:

□shall not leave the city of Delhi until the notice under Section 41A of the Cr.P.C., 1973, in relation to the FIR No. 85/2021 Police Station Guntur District is served on him by the respondent No.2 qua which it is undertaken on behalf of the respondent No.2 by the learned Standing Counsel for the respondent No.2 that that notice under Section 41 A of the Cr.P.C., 1973 would be served on the petitioner during the course of the day or latest by 30.12.2021 in as much as it has to be served by the Investigating Officer of the case FIR No. 85/2021 P.S.Guntur who is travelling from Vijayawada to Bangalore and has since taken a flight from Bangalore to Delhi; □ shall keep his mobile phone No. 9849987888 on at all times (the counsel for the petitioner has rung up the petitioner during the course of the present proceedings at this number to which the petitioner has responded);

□shall drop a pin on the Google map to ensure that his location is available to the Investigating Officer. The matter be renotified for the date 11.1.2022.

ANU MALHOTRA,J (VACATION JUDGE) DECEMBER 29, 2021/SV