



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 28<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO. 9158 OF 2026 (GM-POLICE)**

**BETWEEN:**

ABDUL KHADAR NIHAD  
S/O MOHAMMED AHMED SHBEER,  
AGED ABOUT 27 YEARS,  
RESIDENT OF KOTTAN HOUSE,  
ULAIBETTU POST AND VILLAGE,  
MANGALORE TALUK, D.K-574 145.

...PETITIONER

(BY SRI. HALEEMA AMEEN., ADVOCATE)

**AND:**

THE STATE  
BY BAJPE POLICE STATION,  
REPRESENTED BY STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
AMBEDKAR VEEDHI,  
BANGALORE - 560001

...RESPONDENT

(BY SRI. K.P. YOGANNA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A). ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE ORDER, DIRECTING THE BAJPE POLICE TO NOT TO RESTRICT THE PETITIONER FROM LEAVING THE COUNTRY AND TO ALLOW HIM TO TRAVEL TO SAUDI ARABIA, FOR THE PURPOSE OF RESUMING HIS DUTY OVER THERE, THE ACT OF

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signed by  
CHAITHRA A  
Location:  
HIGH COURT  
OF  
KARNATAKA



POLICE WHICH IS IN PURSUANCE TO A CASE REGISTERED AGAINST HIM IN CRIME NO.188/2025 OF BAJPE PS, FOR OFFENCES PUNISHABLE U/S 351(2), 352, 353(1)(C), 192 OF BNS, AS PER THE FIR-ANNEXURE A, PENDING ON THE FILE OF JMFC (VI COURT), MANGALORE, D.K, B). ISSUE SUCH OTHER RELIEF/S AS IS DEEMED FIT TO GRANT IN FAVOUR OF THE PETITIONER BY THIS HON'BLE COURT IN VIEW OF THE FACTS AND CIRCUMSTANCES OF THE CASES, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR DICTATING ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

### **ORAL ORDER**

The present writ petition is filed invoking the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India seeking a writ of mandamus directing the respondent-Police, more particularly Bajpe Police Station, not to prevent the petitioner from travelling abroad by virtue of a subsisting Look Out Circular (LOC), thereby enabling him to resume his employment in the Kingdom of Saudi Arabia.

2. The undisputed facts reveal that a complaint came to be registered by a police official attached to Bajpe



Police Station alleging that a post on social media contained inflammatory statements touching upon religious sentiments. The said post was traced to an Instagram account, which, upon investigation, was linked to a mobile number allegedly belonging to the petitioner, who was then working abroad.

3. Based on the said complaint, Crime No.188/2025 was registered for offences punishable under Sections 351(2), 352, 353(1)(c) and 192 of the Bharatiya Nyaya Sanhita, 2023.

4. During the course of investigation, a Look Out Circular(LOC) came to be issued against the petitioner, pursuant to which he was intercepted upon arrival in India, subjected to interrogation, and thereafter enlarged on bail by the jurisdictional Magistrate. The petitioner's passport and mobile phone, which were initially seized, have since been released.



5. However, the LOC continues to remain in force, thereby effectively restraining the petitioner from travelling abroad and resuming his employment.

6. Heard the learned counsel for the petitioner and the learned AGA for respondent.

7. The following points would arise for consideration:

*"(i) Whether the continuation of the Look Out Circular, despite the petitioner being enlarged on bail, is legally sustainable?"*

*(ii) Whether the invocation of Section 208 of the Bharatiya Nagarik Suraksha Sanhita, 2023 impacts the legitimacy of the ongoing proceedings?*

*(iii) Whether the impugned restriction violates the petitioner's fundamental rights under Article 21 of the Constitution of India?"*



**Finding on point Nos. (i) to (iii):-**

8. A LOC is not a statutory instrument backed by an adjudicatory order. It is an executive device intended to secure the presence of an accused during investigation. However, when such an executive measure results in curtailment of a citizen's fundamental right to travel, it must withstand the scrutiny of constitutional proportionality.

9. The right to travel abroad is no longer res integra and is firmly embedded within the ambit of Article 21 of the Constitution of India. Any restriction on such a right must be just, fair, and reasonable, and cannot be arbitrary or excessive.

10. In the present case, the petitioner is already arrested and interrogated, enlarged on bail by a competent Court, and no longer in possession of any incriminating material.



11. Therefore, the continued operation of LOC transforms from an investigative safeguard into a punitive restraint, which is impermissible in law.

12. At this juncture, it would be apposite to advert to the statutory scheme governing offences alleged to have been committed outside India. Section 208 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") reads thus:

"208. Offence committed outside India.— When an offence is committed outside India—

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India, he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found or where the offence is registered in India:

Provided that notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government."



A plain reading of the above provision would indicate that the legislature has created a legal fiction, whereby an offence committed outside India is deemed to have been committed within India, thereby enabling domestic Courts to assume jurisdiction. However, the proviso engrafts a clear limitation on such jurisdiction, mandating that no inquiry or trial can proceed without prior sanction of the Central Government.

13. The scope and ambit of the analogous provision under Section 188 of the Code of Criminal Procedure, 1973 has been the subject matter of authoritative pronouncement by the Hon'ble Supreme Court.

14. In ***Sartaj Khan v. State of Uttarakhand*<sup>1</sup>**, the Hon'ble Apex Court has lucidly held that the requirement of sanction is attracted only when the entirety of the offence is committed outside India. It is further clarified that where a part of the cause of action arises within India, the rigour of the proviso would not be attracted, and

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<sup>1</sup> **2022 SCC OnLine SC 360**



the Courts in India would have jurisdiction to proceed in the ordinary course. The Court, therefore, delineates a jurisdictional distinction between wholly extra-territorial offences and offences having a domestic nexus.

15. Further elucidation is found in ***Thota Venkateswarlu v. State of Andhra Pradesh***<sup>2</sup>, wherein the Hon'ble Supreme Court, while interpreting Section 188 Cr.P.C., has held that the requirement of prior sanction under the proviso is not a condition precedent for taking cognizance. The embargo operates only at a later stage, namely, before commencement of trial. The Court has categorically observed that the statutory requirement is satisfied so long as sanction is obtained before the trial begins, thereby permitting investigation and cognizance to proceed unhindered.

16. The said principle has been consistently reiterated, including in ***Nerella Chiranjeevi Arun Kumar***

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<sup>2</sup> (2011) 9 SCC 527



***v. State of Andhra Pradesh***<sup>3</sup>, wherein the Hon'ble Apex Court clarified that absence of sanction at the stage of investigation or cognizance does not vitiate the proceedings, but trial cannot be proceeded with in the absence of such sanction.

17. Thus, the propositions that emerge from a conjoint reading of Section 208 of BNSS and the above judgments are as follows:

(a) Extra-territorial jurisdiction is statutorily recognized, enabling Indian Courts to deal with offences committed outside India by citizens or in specified circumstances.

(b) Sanction of the Central Government is mandatory, but its operation is confined to the stage of inquiry or trial, and not to the stage of investigation or cognizance.

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<sup>3</sup> **2021 SCC OnLine SC 3392**



(c) Where the offence is not committed in its entirety outside India, and a part of the cause of action arises within India, the requirement of sanction may not be attracted.

(d) The proviso acts as a jurisdictional safeguard, ensuring that prosecution of extra-territorial offences is subjected to executive scrutiny before trial commences.

Applying the above principles to the case on hand, it is evident that though the prosecution alleges that the offending act emanates from a foreign source, the question as to whether the offence is wholly extra-territorial or partly within India is a matter that requires adjudication on evidence. At this stage, the absence of sanction from the Central Government does not ipso facto vitiate the investigation or cognizance, but it certainly casts a jurisdictional obligation on the prosecution to obtain such sanction before the matter proceeds to trial.



18. This statutory limitation assumes significance while examining the proportionality of coercive measures adopted during investigation, particularly when the very continuance of proceedings beyond a certain stage is contingent upon compliance with the proviso to Section 208 BNSS.

19. The doctrine of proportionality, now firmly ingrained in Indian constitutional jurisprudence, mandates that the measure must be suitable, necessary, and the least restrictive alternative.

20. In the present case, petitioner has co-operated with investigation; he is on bail; his presence can be secured through conditions. Yet, the State seeks to impose a blanket travel embargo, which is neither necessary nor proportionate. The LOC, in its present form, operates as a civil death of the petitioner's livelihood, especially when his employment is situated abroad.



21. The right to livelihood is an integral facet of Article 21 of the Constitution of India. The petitioner's employment as a driver in Saudi Arabia is his sole means of sustenance.

22. The State cannot, under the guise of investigation, reduce a citizen to economic destitution. The constitutional guarantee under Article 21 of the Constitution of India is not confined to mere animal existence but extends to dignified survival and economic freedom.

23. The impugned action, therefore, fails the test of fairness, reasonableness, and non-arbitrariness. The continuation of the Look Out Circular, despite the petitioner being on bail, is arbitrary and disproportionate. Section 208 BNSS does not bar investigation but underscores jurisdictional limitations, which further weakens the justification for coercive restraint. The impugned restriction amounts to a violation of Article 21 of



the Constitution of India, particularly the right to travel and livelihood.

24. This Court is of the considered view that the impugned action of the respondents in continuing the Look Out Circular is constitutionally unsustainable and liable to be interfered with. Accordingly, point nos. (i) and (ii) are answered in the **negative** and point no. (iii) is answered in the **affirmative**.

25. For the foregoing reasons, this Court proceeds to pass the following:

### **ORDER**

(i) The writ petition is **allowed**.

(ii) The Look Out Circular issued against the petitioner in Crime No.188/2025 pending on the file of the JMFC(VI Court), Mangalore, D.K., stands quashed.



(iii) The respondents are directed not to interfere with the petitioner's right to travel abroad, subject to the following conditions:

(a) The petitioner shall furnish his address and employment details abroad to the Investigating Officer;

(b) The petitioner shall execute a bond with sureties to the satisfaction of the jurisdictional Court;

(c) The petitioner shall appear before the Investigating Officer as and when required, including through virtual mode;

(d) The petitioner shall not tamper with evidence or influence witnesses;

(iv) Liberty is reserved to the respondents to seek appropriate modification of this order in the event of violation of any conditions.



(v) It is made clear that investigation shall proceed in accordance with law and this order shall not be construed as an expression on merits.

**Sd/-**  
**(SACHIN SHANKAR MAGADUM)**  
**JUDGE**

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