

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
NOTICE OF MOTION (L) NO.39 OF 2015
IN
INSOLVENCY PETITION NO.34 OF 2005**

Re: Lav Chadha & Ors. ...Insolvents

Mr. T.N. Tripathi, i/b. T.N. Tripathi & Co., for the Petitioning Creditor.

Mr. U.S. Srivastava, Deputy Official Assignee present.

DATED : 17 AUGUST, 2015

The Notice of Motion is taken out by the Applicant, who is Insolvent No.2 in the present Insolvency Petition. The application seeks permission to travel to New York, USA for about 15 days to attend obsequial ceremony (Kriya) of his father-in-law late Shri Dhalumal Abichandani who expired in New York on 11 August 2015. The passport of the Applicant is presently in custody of the Official Assignee. It is submitted that private and public examination of the Applicant has been completed and that he has complied with all the requisitions raised by the Official Assignee. It is submitted that for the obsequies and ceremonies to be performed in New York the Applicant's presence is essential. It is submitted that for that purpose, it is prayed that the Official Assignee be directed to

return his passport. It is submitted that a close family friend, one Mr. Jaipal Singh Bhatia, has agreed to sponsor the Applicant's trip to USA and also offered to stand as a surety for the Applicant's return to India. Mr. Jaipal Singh Bhatia has offered a demand draft for a sum of Rs. 5 lacs to be retained by the Official Assignee upfront as a security towards the return of the Applicant to India and re-submission of his passport with the Official Assignee. Mr. Jaipal Singh Bhatia further offers to give a suitable undertaking in such form as the Official Assignee may require together with an Indemnity Bond for a further sum of Rs. 20 lacs.

2. Learned Counsel for the Petitioning Creditor opposes this application. It is submitted that though private examination is concluded, the public examination of the Applicant Insolvent has not been concluded. It is submitted that the security offered is too low considering the debt of the Petitioner.

3. The total dues of the Petitioning Creditor are of Rs.2.76 crores, out of which the principal amount is not over Rs.15 lacs. Considering this fact and also considering the fact that the Applicant has to remain present for obsequies of his close relative (father-in-law), it is in the interest of justice that against the security offered the passport of the Applicant Insolvent is returned to him to enable him to visit New York, USA.

4. Accordingly, it is ordered as follows :

(i) The Official Assignee is directed to return the passport of the Applicant Insolvent to enable the Applicant to travel to New York, USA for a period of 15 days.

(ii) The passport shall be returned against the well wisher, Jaipal Singh Bhatia, submitting an appropriate undertaking together with Indemnity Bond for a sum of Rs. 20 lacs in addition to the demand draft submitted for the sum of Rs. 5 lacs.

(iii) The Applicant shall immediately upon receipt of VISA and issuance of Air Tickets communicate to the Official Assignee the particulars of the Insolvent's travel to New York USA and back.

(iv) On the return of the Insolvent to India and re-submission of his passport to the Official Assignee, the security held by the Official Assignee in the form of the demand draft of Rs. 5 lacs as well as the Indemnity Bond executed by the well wisher shall be returned to him.

(v) The Notice of Motion is, accordingly, disposed of.

(vi) All parties to act on the authenticated copy of this order.

(vii) Learned Counsel for the Petitioning Creditor seeks two weeks stay of this order. The application is refused.

(S.C. Gupta, J.)