

him by the third respondent in Crime No.337 of 2013 under Sections 153(A) (1) (b), 295(A), 505(B) of IPC.

3. The further case of the petitioner is that even though FIR did not make out any offence under the aforesaid Sections, the third respondent registered the above case against him to satisfy the political rival of the petitioner, as the very complaint was given against the petitioner by a political rival of the petitioner. The petitioner got Anticipatory Bail on 30.07.2013 and subsequently, the bail conditions were also relaxed on 23.08.2013.

4. The further case of the petitioner is that the second respondent was recommended to issue a Look Out Circular with a view to prevent him from going abroad. Based on such recommendation, the second respondent issued a Look Out Circular against the petitioner and forwarded the same to the first respondent. Without knowing the issuance of Look Out Circular, the petitioner went to Airport on 03.11.2016 to travel to Malasiya. However, he was stopped by the subordinates of the first respondent, hence the petitioner made a representation to the third respondent to withdraw the said Look Out Circular. Pursuant to the said request of the petitioner, the third respondent after having conducted an enquiry, submitted a report with 'No objection', to the second respondent, for the withdrawal of Look Out Circular. However, no action was taken to withdraw the Look Out Circular issued against the petitioner. Only in these circumstances, the petitioner has approached this Court with the present writ petition with the aforesaid prayer.

5. Mr.M.Seeni Sulthan, learned counsel appearing for the petitioner would submit that the contents of the FIR filed against the petitioner would disclose that the petitioner has not made any derogatory remarks against the Sovereignty of the Country, as has been alleged by the respondent side, in the counter affidavit. He further submits that the petitioner only participated in the meeting on the said day to echo the views of the organisation he belongs and he has never committed any offences punishable under the provisions of IPC or any other punitive legislation. Moreover, he also fully co-operated with the respondent police in completing the investigation and in fact, the investigation is already completed by the third respondent and according to them, they also filed the charge-sheet before the concerned Magistrate Court.

6. In support of the case of the petitioner, the learned counsel for the petitioner would rely upon the judgment of this Court reported in 2014-4 L.W.841 (Arockia Jeyabalan V. The Regional Prison Officer, Mount Road, Chennai & others. In the said judgment, the learned counsel relied upon para-11 which reads thus:-



"11. Therefore, it is clear that the only reason for the Police making a request to the Bureau of Immigration to issue a Look Out Circular against the petitioner was the registration of a complaint against him and his non availability for interrogation. The purpose of issue of the Look Out Circular now stands served, with the interception of the petitioner at the Bangalore Airport on 31.01.2014 and his arrest and detention to judicial custody. The petitioner has now come out on bail and has also complied with the bail conditions."

7. By citing the said decision, the learned counsel appearing for the petitioner argues that the very purpose of issuing Look Out Circular since has been accomplished, as the third respondent has completed the investigation, there is no further requirements of continuing the Look Out Circular and by thus preventing the movement of the petitioner for going abroad for his personal/business commitments. Therefore, the learned counsel appearing for the petitioner submits that the petitioner's personal liberty is at stake, as he has unnecessarily been restrained, by issuance of Look Out Circular and therefore, he seeks for interference of this Court that the prayer of Writ of Mandamus, as has been prayed for herein, may be considered.

8. Per contra, Mr.S.Kumar, the learned Additional Government Pleader appearing for the respondents 2 & 3 by relying upon the averments made in the counter affidavit of the third respondent, would submit that the criminal case admittedly is pending against the petitioner, which is ripe for hearing. Moreover, in view of the activities of the petitioner, it become an absolute necessity to issue a Look Out Circular and that is the reason why, the Look Out Circular was issued to check and report the movement of the petitioner through Airports in India. The personal liberty, as claimed by the petitioner, according to the learned Additional Government Pleader, would be subject to the Sovereignty of the State and whenever there is an apprehension on any individual on the likelihood of commissioning of any offence in the context of Sovereignty of India, certainly his movement can be restricted, therefore, there is absolutely no infirmity or illegality in the Look Out Circular issued by the respondent.

9. The learned Additional Government Pleader in support of his contention, would rely upon the following averments made in the counter affidavit filed by the third respondent:-

"4. It is further submitted that the petitioner is an accused in Crime No.337/2013 u/s 153(A), (1), (b), 295(A) and 505 (B), on a complaint given by one Suriyaprakash of Bharathiya Jenatha Party, Ramanthapuram District. As per the complaint the petitioner made defamatory, obscene and



unparliamentary words against Selvi Uma Baharathi the present Cabinet Minister of Government of India. Further it is alleged that the petitioner uttered words against the sovereignty of India besides making slogans against communal harmony.

5. It is further submit that as per secret report from intelligence agency the petitioner is having link with Islamic Fundamentalist. Though the petitioner is having only one criminal case against him in instrumental in Islamic moments in Ramnad District. Since his moment is closely watched by the police inland and abroad and a criminal case is pending which is ripping trial on the recommendation of Respondents the 2nd respondent requested the 1st Respondent to lookout the moment of the petitioner through airport in a proforma enclosed in C.No49-3/D2/DCRB/RM/2014 dated 27.10.2014 to issue lookout circular.

6. It is further submit that based on the request of the 2nd Respondent, the 1st Respondent issued lookout circular No.2014418252/2014 to check and report the movement of the petitioner through Airports in India. The validity of issuance of the lookout circular and the free movement of the citizen of India is discussed in various cases by courts of law. As per the Judgments the Supreme Court held that the right to travel abroad by the Indian citizen itself is not the fundamental right and is subject to restrictions. Lookout circular (LOC) is a circular letter used by Authorities to whether a travelling person is wanted by the police it may be used at immigration checks at international borders (Like international Airports or Sea ports). LOC has a given proforma which have Identification parameters of criminals and help police to catch absconding criminals and stopping them from crossing borders.

8. It is further submit that since the petitioner is arrayed as an accused in the above said in Crime No.337/13 in Kenikarai Police Station and charge sheet also filed on the file of Learned Judicial Magistrate No.II, Ramanathapuram and is not taken into file, he is associated with Islamic Fundamental Group his activity should be under constant surveillance and hence the lookout circular respondents are legally valid one which is requested and issued in the interest of public. If the petitioner is free he may flee at any time which may paralyze the judicial proceedings I.e., the criminal case pending against the petitioner."

10. This Court has considered the rival submissions made by the learned respective counsel for the parties. Though the averments made in the counter affidavit and the allegations made by the petitioner are denied by the learned counsel for the petitioner in his arguments, the same cannot be decided by this Court at this juncture that too, in a writ petition invoking



the writ jurisdiction of this Court under Article 226 of the Constitution of India. As has been averred in para-8 of the counter affidavit of the third respondent a charge-sheet also has been filed in Cr.No.337 of 2013 in Kenikarai Police Station, however, it is not taken into file, therefore the criminal case is ripe for trial.

11. Whether a Look Out Circular is necessary or required one, in a given circumstances, can also be decided, on the basis of the very judgment relied upon by the petitioner side itself, as in the said judgment in 2014-4-L.W.841 cited supra, the learned Judge has made the following at paragraph-12 which reads thus:-

"12.The object of a Look Out Circular is to ensure that a person is available for interrogation or trial or enquiry. Now that the Court has released him on bail subject to certain conditions as well as sureties, the apprehension that the petitioner may not make himself available and amenable to law, has gone."
(Emphasis supplied)

12. Therefore, the object of Look Out Circular is to ensure the person's availability for interrogation or trial or enquiry. Here in the case in hand, though interrogation and enquiry was completed and a charge-sheet also has been filed, the trial is yet to be commenced and it is informed by the respondents that the case is ripe for trial. Therefore, when the petitioner has to face the trial, whether his presence is required continuously or not, is the matter to be decided only by the concerned trial Court and in this context, this Court cannot express any specific opinion about the requirement of the presence of the petitioner in this Country, for a particular period.

13. In view of these factors and circumstances, this Court is of the view that the petitioner can very well approach the concerned Trial Court, where the criminal case is pending against him, wherein, as claimed by the respondent, charge-sheet has also been filed, but has not been taken on file, and persuade his plea, before the said Court, for getting the relief, by way of permission to go abroad or otherwise.

14. If such a petition is filed by the petitioner before the Trial Court, taking into consideration of the circumstances, the Trial Court can take a decision depending upon the requirements and situation vis-a-vis, the trial to be commenced in the said case.

15. In view of the above, this Court is not inclined to entertain this writ petition for grant of relief, as has been ~~entertained~~ ^{permeated} ~~in the~~ ^{in the} ~~trial~~ ^{trial} ~~court~~ ^{court} ~~for~~ ^{for} ~~the~~ ^{the} ~~relief~~ ^{relief} ~~as~~ ^{as} ~~has~~ ^{has} ~~been~~ ^{been} ~~entertained~~ ^{entertained} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~trial~~ ^{trial} ~~court~~ ^{court} ~~for~~ ^{for} ~~the~~ ^{the} ~~relief~~ ^{relief} ~~as~~ ^{as} ~~has~~ ^{has} ~~been~~ ^{been} ~~entertained~~ ^{entertained} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~trial~~ ^{trial} ~~court~~ ^{court} ~~for~~ ^{for} ~~the~~ ^{the} ~~relief~~ ^{relief} ~~as~~ ^{as} ~~has~~ ^{has} ~~been~~ ^{been} ~~entertained~~ ^{entertained} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~trial~~ ^{trial} ~~court~~ ^{court} ~~for~~ ^{for} ~~the~~ ^{the} ~~relief~~ ^{relief} ~~as~~ ^{as} ~~has~~ ^{has} ~~been~~ ^{been} ~~entertained~~ ^{entertained} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~trial~~ ^{trial} ~~court~~ ^{court} ~~for~~ ^{for} ~~the~~ ^{the} 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to law. It is made clear that any of the observations made in this order, as a narration of fact, cannot be put against the petitioner in deciding the plea of the petitioner as indicated above.

16. With these observations, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To

1. The Chief Immigration Officer,
Shasthiri Bhavan Annexe Building,
No.26, Haddows Road,
Nungambakkam,
Chennai-600 006.

2. The Superintendent of Police,
Ramanathapuram District.

3. The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.

+1CC to M/S.M.Sennisulthan, Advocate, SR.No. 56269

W.P. (MD) .No.536 of 2017
and
W.M.P (MD) No.430 of 2017
10.05.2017

smi/is/am
JS/MR/SAR 4/11.05.2017/6P/5C