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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 979/2018 & CM APPL. No.4148/2018, 15077/2018

NAVAL KISHORE KAPOOR

..... Petitioner

Through: Mr. R.J. Alva with Mr. Ankit
Kaushal, Advs.

versus

NATIONAL INVESTIGATION AGENCY

..... Respondent

Through: Mr. Siddharth Luthra, Sr. Adv. with
Mr. Abhay Prakash Sahay, CGSC

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

26.04.2018

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1. The substantive prayer made in the writ petition is as follows:

“Issue a writ of mandamus, writ in the nature of mandamus or any other appropriate writ, order or direction commanding the Respondent/ National Investigation Agency, Ministry of Home Affairs, Government of India, New Delhi to return to the Petitioner his original passport being Passport No. K5721932.”

2. Insofar as CM Appl. No. 15077/2018 is concerned, the prayer made therein reads as follows:

“Allow the present Application and quash the Lookout Circular issued by the Respondent/NIA against the Applicant/Petitioner.”

3. Reply to the application has been handed over by the learned counsel for the respondent/NIA in Court, today; a copy of which has been handed over to me.

4. To be noted, it is not disputed by the learned counsel for the petitioner

that the petitioner has already been returned his passport. Therefore, the main petition appears to have worked itself out.

5. Mr. Alwa, who appears for the petitioner, says that he has moved the captioned interlocutory application, for the reason that despite the petitioner having a valid passport in his favour, he is not allowed to cross immigration barrier because of a Look Out Circular (“LOC”) being issued qua him.

5.1 On being queried, learned counsel says that he has not been served with a copy of the LOC.

6. Mr. Siddharth Luthra, learned Senior Counsel, who appears for respondent/NIA, confirms that a LOC has been issued vis-à-vis the petitioner. For this purpose reliance is placed on the reply to the application filed on behalf of the respondent/ NIA.

6.1 In the reply, broadly, the reason given for issuance of the LOC is that the petitioner is required to be investigated in a matter pertaining to, one, Mr. Zahoor Ahmed Shah Watali. It is alleged that the petitioner is a business partner of Mr. Zahoor Ahmed Shah Watali.

6.2 It is not disputed before me by Mr. Luthra, though, that, at present, the petitioner is not arraigned, as an accused in any criminal case.

7. Given this position, counsel for the petitioner says that the petitioner is willing to assist in the investigation being carried out by the respondent/NIA and that, he will join the process as and when duly notified in that behalf. Besides this it is also the contention of the learned counsel for the petitioner that in terms of Office Memorandum (O.M.) dated 27.10.2010, issued by the Government of India, Ministry of Home Affairs, the petitioner can be detained by taking recourse to LOC, only if, he was

accused of committing a cognizable offence. In this behalf reliance is placed on Clause 8(h) of the said O.M.

8. Having heard learned counsel for the parties, I am inclined to dispose of the writ petition and the pending applications with the following directions: -

(i) The respondent/NIA will serve a copy of the LOC on the petitioner. Along with the copy of the LOC the respondent/ NIA will also serve on the petitioner the grounds on which the LOC is issued qua him.

(ii) While doing so the respondent/ NIA will bear in mind the provisions of the aforementioned O.M. or any other instruction that may have been issued which empowers issuance of a LOC against a person who is not arraigned as an accused in a criminal case.

9. Let the needful be done within one week from today.

10. The petitioner will have liberty to challenge the same in case the situation demands that the LOC and the grounds on which it has been issued needs to be assailed.

11. Writ petition and applications are disposed of.

12. *Dasti* under signatures of the Court Master.

RAJIV SHAKDHER, J

APRIL 26, 2018/pmc