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

+ W.P.(C) 4740/2019 and CM APPL. 21091/2019

**KAMALESH SAILESH CHANDRA
CHAKRABARTY**

..... Petitioner

Through: Mr Vikas Pahwa, Senior Advocate
with Mr Om Prakash Shukla, Mr
Abdhesh Chaudhary, Ms Oorjasvi
Goswami, Ms Aashita Khanna and
Ms Ruchika Wadhwan, Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Vikas Mahajan, CGSC with Ms
Saakshi Agrawal, Advocate for UOI.
Mr Prasanta Varma, SPP for CBI with
Ms P.N. Varma and Ms Shalu
Goswami, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **29.05.2019**

1. The petitioner has filed the present petition, *inter alia*, impugning a Look Out Circular issued against him by respondent no.1 at the instance of respondent no.2 (CBI).
2. The petitioner was a Chairman & Managing Director of the Punjab National Bank Ltd. from the year 2007-2009. He served as a Deputy Governor of the Reserve Bank of India from June 2009 to April 2014.
3. It is averred in the counter affidavit that there are two criminal cases where the petitioner may have been involved. The first is RCBD 1/2016/E/0009 and the second is RCBD 1/2016/E/0008. It is stated that the involvement of the petitioner is being investigated. Although there is no

charge sheet filed against the petitioner, it is contended on behalf of the respondents that the petitioner may be culpably involved in the said cases and he is likely to abscond from this country.

4. It is alleged that the petitioner had exerted personal influence over other bank officials to grant facilities to undeserving borrowers, thereby causing wrongful loss to the banks and wrongful gain to the persons accused.

5. The petitioner states that he has taken up permanent residence overseas since 2014. He states that he had received an email from the CBI to appear in connection with certain investigations in January 2018. The petitioner states that he had responded to the said email and had confirmed that he would be visiting in India during the month of April 2018 and would voluntarily appear before the investigating authority.

6. Admittedly, the petitioner arrived in India in April 2018 and had presented himself for examination at the office on 17.04.2018 and 28.04.2018.

7. The petitioner had booked a flight to return to the UK, however, he was prevented from boarding the flight on 01.05.2018. The petitioner was then informed that a Look Out Circular had been issued at the instance of CBI.

8. The petitioner was once again examined on 08.05.2018, 28.06.2018 and on 29.06.2018. Admittedly, the petitioner has not been called for any examination thereafter and there has been no other interaction between the

investigating authorities and the petitioner. Nonetheless, the petitioner has been restrained from leaving this country.

9. The petitioner had made two representations to the CBI for cancellation of the LOC. However, the representations were rejected. Aggrieved by being restrained from leaving this country, the petitioner had filed an application before learned Special Judge, Saket Court seeking permission to travel overseas. The said application was denied by an order dated 05.09.2018.

10. A perusal of the said order indicates that the Court had declined the petitioner's request on the submission of the IO that the petitioner was a suspect and was required for further interaction. The IO had stated that the petitioner's presence was required as he was to be confronted with the records as well as two other accused persons, namely, Sh. T.K. Bose and Sh. Gaurav Mehra. The IO had also submitted that the petitioner was also suspect in another case, that is, *CBI v. M/s Kingfisher Airlines Ltd.*

11. Admittedly, the petitioner has not been called thereafter. He has also not been confronted with any records. This Court is, *prima facie*, of the view that the submission made by the IO was only for the purpose of opposing the petitioner's application and there was no urgent requirement for the petitioner to be confined in this country. This is obvious from that fact that the investigating agency has not interacted with the petitioner during the past over seven months. Even after being restrained from leaving the country and returning home, for over a year, the petitioner is not an accused in any of the cases. As notice above, no charge sheet has been filed by the CBI.

12. The instrument of a LOC is only to be used in an urgent situation where a person is found to have been evading the process of investigation. The investigating agency must circumspect in using this instrument, as it seriously affects the fundamental rights of the citizen, who is restrained from travelling. In the facts of this case, more so as the petitioner has taken up residence in the UK and he has been restrained from joining his wife and son who continue to reside in the UK.

13. In view of the facts narrated above, this Court is of the view that the petitioner cannot be stopped from leaving this country by using the instrument of an LOC.

14. The learned senior counsel appearing for the petitioner further submitted that the petitioner requires to travel to the UK urgently as his visa is expiring on 08.07.2019 and he requires to renew the same. He further states that the petitioner would undertake to return back to this country within a period of five weeks from his departure and appear before the concerned investigating agency as and when called upon to do so.

15. In view of the above, the petitioner is permitted to travel overseas for a period of five weeks, subject to meeting the following conditions:

- (a) That the petitioner shall deposit a Fixed Deposit Receipt (FDR) in the sum of ₹1 crore with the Registrar General of this Court as a security for his commitment to return to India within five weeks of his departure.
- (b) The petitioner shall also give an undertaking by way of an affidavit to

return back to this country, within a period of five weeks from his departure.

- (c) The petitioner shall also give a surety bond of any one person to the Registrar General of this Court.

16. Subject to the petitioner meeting the aforesaid conditions, the petitioner would be at liberty to travel to the United Kingdom for a period of five weeks.

17. In view of the aforesaid order, the petitioner does not seek to press his challenge against the LOC at this stage while reserving his right to do so.

18. Subject to the petitioner completing the aforesaid conditions, the Immigration authorities shall not create any impediment to the petitioner in travelling overseas for a period of five weeks.

19. The Registrar General of this Court shall return the FDR and discharge the surety bond on petitioner's arrival back in this country, subject to his strictly complying with the aforesaid conditions.

20. The petition is disposed of. It is clarified that all contentions of the parties regarding issuance of the LOC are reserved.

21. The pending application is also disposed of.

22. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

MAY 29, 2019/RK