IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.3949 OF 2020
AND
W.M.P.NO.4688 OF 2020

Shri Ahmed A.R.Buhari, ... Petitioner

vs

1. Union of India
rep. by Secretary,
Ministry of Home Affairs,
Government of India,
East Block- VIII,
Level - V, sector-I,
R.K.Puram,
New Delhi - 110 066.

2. The Directorate of Enforcement,
rep. by its Deputy Director,
Chennai Zonal Office,
Government of India,
2nd & 3rd Floor,
Murugesan Naicker Complex,
No.84, Greams Road,
Chennai - 600 006. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to the respondents, more particularly, the 2nd respondent herein, to forthwith lift the Lookout Circular in F.No.ECIR/CEZO/I/01/2018 and allow the petitioner herein to travel to Singapore, Korea, United Kingdom, Europe, Bangladesh, Malaysia, Indonesia, Japan and China from february 2020 till 31.05.2020.

For Petitioner : Mr.B.Kumar, Senior Counsel for Mr.B.Satish Sundar

For Respondents : Mr.A.Murugesan, Central Government Counsel for R1
N.Ramesh, Special Public Prosecutor for R2.

# O R D E R

The petitioner seeks for a Mandamus to forthwith lift the Lookout Circular in F.No.ECIR/CEZO/I/01/2018 and allow the petitioner herein to travel to Singapore, Korea, United Kingdom, Europe, Bangladesh, Malaysia, Indonesia, Japan and China from February,2020 till 31.05.2020.

2. The case of the petitioner in short is as follows:

The petitioner is a non-resident Indian. He is a Founder-President and CEO of Coal and Oil Group, an Indian Centric Integrated Energy and Infrastructure Company. He is also the former Promoter of an entity by name M/s. Coastal Energy Pvt.Ltd., Chennai. One of the key areas in which the entity of the petitioner undertakes is power generation. For the purpose of procuring raw material in the form of coals, the trading entity imports coal from Indonesia and other countries. During 2011-12 to 2014-15, the entity of the petitioner had imported coal from Indonesia at various seaports for servicing the various power projects. In 2017, DRI had initiated the investigation against M/s.Coastal Energy Pvt. Ltd. against the supply of coal from Indonesia to NTPC/MMTC and other public sector enterprises during the relevant period. Similarly, investigations were also initiated against M/s.Knowledge Infrastructure Systems Ltd., Reliance Infrastructure Ltd., ESSAR Power Gujarat Ltd., Valnar Power Company Ltd. and Adani Enterprises Ltd. The petitioner was summoned on various occasions by the officers of the DRI and his statement were recorded. The entire set of import documents and other materials have been resumed by the DRI and they are in their custody. On completion of investigation, the DRI issued a show cause notice dated 14.02.2017 under the provisions of Customs Act, 1962 proposing to reject the declared values, redetermination of the same, confiscation and penalties. The said show cause notice is still pending adjudication. On the basis of the alleged information and also on the basis of the investigation undertaken by the DRI, the CBI, EOW, New Delhi, registered F.I.R. against the petitioner as the promoter of M/s. Coastal Energy Pvt. Ltd. and unknown officials of MMTC, NTPC and one M/s.Aravali Power Company Pvt. Ltd. and others in FIR.No.RC.221/2018/E-003 dated 22.01.2018 alleging offence under section 120B r/w Section 420 IPC and Section 13(2) r/w Section 3(1)(d) of the PC Act, 1988. Pursuant to the registration of the said FIR, the petitioner was summoned by the CBI and his statement was recorded. The CBI had opened a lookout circular against the petitioner. Therefore, the petitioner filed a representation on 13.12.2019 to the Director, CBI for releasing the LOC assuring that he would further co-operate with the investigation. There was no response. Hence, the petitioner moved an application against the said LOC in M.P.No.01/2020 before the concerned jurisdictional Court, namely the Special Judge (PC Act) CBI-XVI, New Delhi. The said application was ordered on 07.02.2020 allowing the petitioner to travel abroad i.e., Singapore, Korea, United Kingdom, Bangladesh and China from 10.02.2020 to 31.05.2020, by suspending the LOC till 31.05.2020, by imposing certain conditions. The petitioner having obtained the said order wanted to leave to Singapore from Delhi on 10.02.2020. To his shock and surprise, he was informed at the Airport that there was a Lookout Circular opened against the petitioner by the 2nd respondent as well. Accordingly, the officials attached to the 2nd respondent came to Delhi and took the petitioner and directed him to appear before them on 11.02.2020, which the petitioner readily complied with. The petitioner made a request before the 2nd respondent to lift the LOC. The petitioner also brought to the notice of the 2nd respondent, the order passed by the jurisdictional Court of CBI dated 07.02.2020. However, no considered decision has been taken by the 2nd respondent. Hence, the present writ petition is filed.

3. A counter affidavit is filed on behalf of the respondents narrating the various facts and circumstances which warranted proceedings initiated against the petitioner. The crux of the contention raised by the petitioner in the counter affidavit in respect of LOC was that if the petitioner is permitted to travel abroad, it would vitiate and hamper the investigation proceedings under Prevention of Money Laundering Act.

4. When the matter was earlier taken up for hearing on 04.03.2020, this Court, after hearing Mr.B.Kumar, the learned senior counsel for the petitioner and Mr.N.Ramesh, the learned counsel for the respondents, directed the learned counsel for the respondents to verify as to how much time is required for completing the investigation. Accordingly, the matter is listed today for further hearing. Today, Mr.N.Ramesh, learned counsel appearing for the respondents, based on instructions, submitted that investigation will go on for some more time as no specific or any particular time period can be given for its completion, as other Directors of the Company have to be examined. However, the learned counsel submitted that since the CBI Court has granted permission to the petitioner to go abroad by lifting the LOC issued by the CBI, till 31.05.2020, on the terms and conditions stipulated therein, similar order can be passed in the matter of LOC issued by the 2nd respondent as well, so that the interest of the respondents would be protected. Learned senior counsel for the petitioner readily agreed to comply with the very same conditions as imposed by the CBI Court, for lifting the LOC issued by the 2nd respondent till 31.05.2020.

5. The petitioner seeks to lift the LOC issued by the 2nd respondent. It is not in dispute that arising out of the same

cause of action both CBI and 2nd respondent are investigating the matter against the petitioner and others. There is no dispute to the fact that CBI has also issued similar LOC and the same was put to challenge by the petitioner before the Special Court (PC Act), Rouse Avenue District Court, Delhi and an order came to be passed on 07.02.2020 by the CBI Court, allowing the said application, subject to certain conditions. In other words, the CBI Court has permitted the petitioner to travel abroad i.e., Singapore, Korea, United Kingdom, Bangladesh and China from 10.02.2020 to 31.05.2020 only by suspending the LOC till 31.05.2020, subject to the following conditions.

1. that applicant shall furnish an FDR of Rs.50 Lacs;
2. that applicant shall furnish his detailed itinerary to the CBI before his departure;
3. that applicant shall keep the mobile number mentioned by him in the application i.e. +65-98360303 in working condition throughout the period;
4. that applicant shall give details of his stay in countries other than Singapore to the CBI, as he has already mentioned address of Singapore;
5. that applicant will not try to contact any of the witnesses or tamper with evidence in any manner;
6. that applicant shall appear before the CBI as and when directed by the said investigating agency;
7. that in case of violation of above conditions, the FDR shall stand forfeited to the State.

6. Since the learned counsel for the respondents submitted that similar conditions can be imposed in this case also for suspending the LOC issued by the 2nd respondent till 31.05.2020, this Court is of the view that without expressing any view on the other conditions raised by both parties, this Writ Petition can be disposed of as follows:

a) The LOC issued by the 2nd respondent shall remain suspended till 31.05.2020, so as to enable the petitioner to travel abroad, namely Singapore, Korea, United Kingdom, Bangladesh and China from 10.02.2020 to 31.05.2020, subject to fulfilment of the following conditions.

i) The petitioner shall furnish FDR of Rs.50 lakhs and submit the same before the 2nd respondent within a period of seven days from the date of receipt of a copy of this order.

ii) The petitioner shall furnish his details itinerary to the 2nd respondent before the departure.

iii) The petitioner shall give his mobile number to the 2nd respondent and keep the said number in working condition throughout the above period.

iv) The petitioner shall give details of his stay in countries where he wants to travel.

v) The petitioner shall not try to contact any of the witnesses or tamper any of the evidence in any manner.

vi) The petitioner shall appear before the Enforcement Directorate as and when directed by the said Investigating Agency.

vii) In case of violation of the above conditions, the FDR submitted by the petitioner shall stand forfeited.

b) It is made clear that this order made, suspending the LOC till 31.05.2020 only, is based on the above stated facts and circumstances and that the petitioner is not entitled to seek for extension of such suspension for future period, on any reasons. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary, Union of India,
Ministry of Home Affairs,
Government of India,
East Block- VIII,
Level - V, sector-I,
R.K.Puram,
New Delhi - 110 066.

2. The Deputy Director,
The Directorate of Enforcement,
Chennai Zonal Office,
Government of India,
2nd & 3rd Floor,
Murugesan Naicker Complex,
No.84, Greams Road,
Chennai - 600 006.

+4ccs to Mr.B.Satish Sundar, Advocate, S.R.No.21081
+1cc to Mr.N.Ramesh, Advocate, S.R.No.21697



AD(CO)
CS/12/03/2020