ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 111 OF 2021

Om Prakash Bhatt	}	
Aged 69 learned, Indian Inhabitant	}	....Petitioner
3, Seagull building, Carmicheal	}	
Road, Mumbai – 400 026	}	

V/s.

1. State of Maharashtra	}	
	}	
2. Central Bureau of Investigation	}	
through its Director, CBI Headquarters,	}	
CGO Complex, New Delhi	}	.....Respondents
Also having its office in Mumbai at	}	
13^{th} Floor, Plot No. C35A, 'G' Block,	}	
Bandra Kurla Complex (BKC),	}	
learned MTNL Exchange, Bandra (learned),	}	
Mumbai- 400098	}	
	}	
3. Union of India	}	

Mr. Prasad Dhakephalkar, Sr. Advocate with Mr. Karan Bhosale, Mr. Ishwar Nankani i/b M/s. Nankani & Associates for Petitioner
Mr. H. S. Venegavkar with Mr. Shreeram Shirsat for Respondent nos. 2 & 3
Mr. J. P. Yagnik APP for the State

CORAM : S. S. SHINDE &
MANISH PITALE, JJ.

RESERVED ON : 23.03.2021
PRONOUNCED ON: 08.04.2021

JUDGMENT: [PER: MANISH PITALE, J.]

1] Heard.

2] Rule. Rule is made returnable forthwith. By consent of the parties, Petition is heard finally.

3] The Petitioner herein is aggrieved by travel restrictions imposed upon him. Although specific look out circular or any such direction is not the subject matter of the present Petition, as the Petitioner states that he was not aware of any such document, the grievance of the Petitioner is, that he was wrongly detained at the Mumbai Airport on 29/09/2018 by immigration officials. The Petitioner was later released and then he was directed to contact Central Bureau of Investigation (CBI) on a particular mobile number. According to the Petitioner, when he made attempts to contact on the said mobile number, there was no response. On a series of communications sent to the Respondent No. 2-CBI, inquiring as to why he was detained, the Petitioner did not receive any reply. According to the Petitioner, he is constrained to file the present Writ Petition, since he does not wish to attempt to travel abroad without any clarity in the matter, as he might be further detained at the airport, which would have an adverse effect on his reputation.

4] The Petitioner is a former Chairman of State Bank of India (SBI). It is stated that after his retirement from the said position, he is on the board of directors of reputed multinational companies and also banks, including the Standard Chartered Bank, London, due to which he is required to frequently travel abroad. The Petitioner states that on 19/02/2018, he received a letter from a special investigation team of Respondent no. 2-CBI asking him to remain present at the office of CBI at New Delhi for examination. This was in connection with offence registered against the owner of Kingfisher Airlines i.e. Vijay Mallya, pertaining to loan disbursed to the said Airlines during the tenure of the Petitioner as Chairman of the SBI. According to the Petitioner, on 29.03.2018, he appeared before Respondent no. 2-CBI and answered their questions on the said date and thereafter, he was never called for further questioning.

5] The Petitioner further states that even after the said date i.e. 29.03.2018, he travelled abroad on business and personal visits and every time he returned back to India. According to the Petitioner, he is not an accused in the aforesaid case concerning Kingfisher Airlines and he is also not an accused in any other criminal case. On this basis, it is submitted that action of the immigration officials at the Mumbai Airport of detaining the Petitioner on 29/09/2018 was wholly illegal and if it was at the behest of the CBI, there was no communication or explanation forthcoming from CBI as to why the Petitioner was sought to be restrained from travelling abroad. Since the Petitioner was not aware about any lookout circular (LOC) issued against him at the behest of the CBI, he had no alternative but to air his grievance in accordance with law.

6) It is in this backdrop that the Petitioner initially filed an Application, being Misc. Application No. 2093 of 2019, before the Court of Special Judge for CBI, Greater Bombay at Mumbai, seeking an appropriate order for quashing of the LOC, if any, issued against him at the behest of the CBI. In this Application, the Petitioner stated that he was neither an accused in the F.I.R. concerning investigation concerning Kingfisher Airlines nor was there any allegation of his involvement in any such offence. The Petitioner relied upon various Judgments to contend that the LOC, if any, deserved to be quashed. By order dated 25/02/2020, the aforesaid Court rejected the Application, primarily on the ground that LOC being an executive

order, it could be appropriately challenged before a Constitutional Court and that since the said Court did not have inherent jurisdiction, it could not entertain the prayers made in the Application on behalf of the Petitioner.

7] Aggrieved by the same, the Petitioner filed the present Writ Petition, challenging the said order passed by the Special Court and also seeking directions against the CBI for lifting travel restrictions imposed upon him.

8] Mr. Prasad Dhakephalkar, learned senior counsel appearing for the Petitioner emphasized in his submissions before this Court that the Petitioner is neither an accused in the F.I.R. concerning offence registered in connection with the Kingfisher Airlines and its owner Vijay Malya nor is he an accused in any other case. It is submitted that in the absence of the Petitioner being arraigned as an accused, there is no propriety or jurisdiction with Respondent no. 2-CBI or Respondent no. 3 Union of India (UOI) to issue any executive order, much less a LOC, to impose travel restrictions on the Petitioner. It is further submitted that the Petitioner had promptly appeared before Respondent No. 2-CBI on 29/03/2018, pursuant to the notice received and he had answered and responded to the queries put to him during the said questioning. It was further submitted that even after 29/03/2018, the Petitioner had travelled abroad on business and personal trips. He was not restrained during the said trips and each time, he had returned back to India.

9] It was further submitted that the Petitioner is a person of high repute, having been Chairman of SBI and presently being on the board of directors of highly reputed companies in India and abroad, as also banks like the Standard Chartered Bank in London. It was submitted that in the context of his work profile, the Petitioner was required to frequently travel abroad and he also visited his daughter abroad. According to the Petitioner, it was surprising that when he was not restrained from travelling even after 29/03/2018 on a number of occasions, as to why suddenly on 29/09/2018, he was detained at the Mumbai International Airport by the immigration officials on the basis of directions issued by CBI. The Petitioner was still not aware about LOC, if any, issued against him and the basis of the same. In fact, the Petitioner gave details of his travel from March 2018 to September 2018 to support his aforesaid contentions. Details of his travel were placed before this Court in the form of a chart.

10] Learned senior counsel appearing for the Petitioner submitted that relevant circulars/notifications/office memoranda pertaining to issuance of LOCs issued from time to time by Respondent no. 3-UOI demonstrated that no such LOC could have been issued in respect of the Petitioner, since he is not arraigned as an accused in any criminal case. Learned senior counsel further relied upon Judgments of Hon'ble Supreme Court, this Court and other High Courts to support his contention that LOC could not have been issued in the context of the Petitioner and that, imposition of such travel restrictions against the Petitioner in the facts and circumstances of the present case was wholly arbitrary. The learned senior counsel relied upon Judgments of Hon'ble Supreme Court in the matters of **Parvez Noordin Lokhandwalla V/s. State of Maharashtra [2020 SCC OnLine SC 807], Nikesh Tarachand Shah V/s. Union of India [(2018) 11 Supreme Court Cases 1],** Judgment of Delhi High Court in the matter of **Sumer Singh Salkan V/s. Asst. Director & Ors. [ILR (2010) VI Delhi 706**, Judgments of this Court in the matters of **Afzal Jaffer Khan V/s. The Officer, CBI ACB Office & Ors. [Cri. Writ Petition No.**

263 of 2019] and **Sucheta Omprakash Goenka V/s. State of Maharashtra [Cri. Writ Petition No. 4872 of 2019]** and Judgments of Madras High Court in the matters of **Karti P. Chidambaram V/s. Bureau of Immigration [2018 SCC OnLine Mad 2229]** and **Shriram Sankaran V/s. State [2018 SCC OnLine Mad 205].**

11] On the other hand, Mr H. S. Venegaokar learned counsel appearing for Respondent Nos. 2 and 3 submitted that Circulars and office memoranda issued from time to time by Respondent No. 3- UOI granted sufficient powers for issuance of LOC against the Petitioner. In the affidavit-in-reply filed before this court, it was stated that an LOC dated 4/09/2018 was issued against the petitioner and other high profile persons who were arraigned as accused, so as to see that they do not flee from India for escaping prosecution. It was further stated that in the examination of petitioner on 29/03/2018 before CBI, he had failed to give satisfactory answers in the context of his actions pertaining to sanctioning of loan facilities to Kingfisher Airlines. As the said case involved huge economic loss to the banks, including SBI, of which the petitioner was Chairman at the relevant time, it was necessary to ensure that the petitioner did not flee from the country, particularly when high profile accused persons in the said case had already fled.

12) The learned counsel for Respondent Nos. 2 and 3 placed reliance on Circulars and office memoranda dated 5/09/1979, 27/12/2000, 27/10/2010, 5/12/2017 and 12/10/2018, to support the impugned action taken against the petitioner. It is submitted that said Circulars/office memoranda provided necessary powers to Respondent Nos. 2 and 3 to take such action against the petitioner to ensure that he does not flee from the country, particularly when it was suspected that he was involved in high value economic offences.

13] The principal contention raised on behalf of the petitioner is that when he is not arraigned as an accused in any FIR, much less FIR pertaining to offences registered against the owner of Kingfisher Airlines, there was no basis for Respondent Nos. 2 and 3 to impose travel restrictions on him. In fact, the petitioner was not even aware about the exact date on which LOC was issued against him and it was only when affidavit-in-reply was filed on behalf of Respondent No. 2, that it became clear that LOC dated 4/09/2018 was issued on the basis of which the petitioner was detained at the Mumbai international airport on 29/09/2018. According to Respondent No. 2, the said LOC was issued and kept alive against the petitioner for justifiable and proper reasons.

14] It is relevant that the petitioner was called for questioning on 29/03/2018 before Respondent No. 2-CBI at its Delhi office and the petitioner did attend such summons. According to the petitioner, he answered the queries put to him, but the Respondent No. 2 has taken a stand that such answers were not satisfactory. It is also significant that despite having called the petitioner for questioning and having interacted with him on 29/03/2018, travel restriction was not imposed upon him and he did undertake international travel on 9 occasions after such questioning by Respondent No. 2-CBI. The Petitioner admittedly travelled in May 2018 on three occasions to United Kingdom, Germany and United States of America. In June 2018, he travelled twice, once to USA and then to Nigeria. In July 2018, the Petitioner travelled to Indonesia, United Kingdom and Mauritius. He then travelled in September 2018 to the United Kingdom. Thus, it is evident that despite the stand taken by the respondent No.2-CBI that the answers given by the petitioner on

29/03/2018 during his questioning were not satisfactory, he freely travelled up to September 2018, in and out of India.

15] The petitioner is a retired Chairman of SBI and he is director of reputed Indian and multinational companies and he is also on the board of reputed banks, including Standard Chartered Bank, London. He is required to travel internationally for work related to such positions that he holds. He is also required to travel on personal visits as his daughter is living abroad. The question for consideration is, when the petitioner is not arraigned as an accused in any FIR and when despite his being questioned by Respondent No. 2 on 29/03/2018, he was permitted to travel freely in and out of India till September 2018, what was the reason that triggered issuance of LOC dated 4/09/2018 issued against him. It is significant that after 29.03.2018, the respondent No.2-CBI did not call the Petitioner for questioning till date.

16] In the affidavit-in-reply filed on behalf of Respondent No. 2, it has been repeatedly stated that the Petitioner had a major role to play as Chairman of SBI in disbursal of loan amounts to the Kingfisher Airlines. It is also stated that the Petitioner was chairman of the committee which permitted disbursal of such huge amounts of loan despite objections raised by junior officials of SBI. An attempt is made in the affidavit-in-reply to show as if the petitioner is deeply involved in the case pertaining to the Kingfisher Airlines. Yet, it is nowhere stated that the petitioner is arraigned as accused in the said case. It is also an admitted position that the petitioner was called only once on 29/03/2018 to attend the office of Respondent No. 2- CBI for questioning. Thereafter, till date the petitioner has not been called even once in connection with the said case or any other case of financial irregularities. As noted above, the Petitioner continued to travel in and out of India till September 2018 i.e. about six months after being questioned by Respondent No. 2- CBI. There is nothing placed on record by Respondent Nos. 2 and 3 regarding what further material they required from the petitioner, which necessitated imposition of travel restrictions on him by issuance of LOC dated 4/09/2018.

17] In this context, it would be relevant to refer to Judgments relied by the learned senior counsel appearing for the petitioner. In the case of **Parvez Noordin Lokhandwalla** [*cited supra*] the Hon’ble Supreme

Court considered the case of an appellant who was arraigned as an accused for offence punishable under sections 420, 467, 468, 469, 470,471 & 474 of the Indian Penal Code. After considering the material on record, the Hon'ble Supreme Court held that in the facts and circumstances of the said case, lodging of FIR ought not to create a bar on the travel of the Appellant for specified period for re-validation of his green card. While granting relief to the Appellant therein, the Hon'ble Supreme Court held that even in such cases where FIR was registered against persons seeking to travel abroad, balance could be struck between public interest in enforcement of criminal justice and rights of the accused. The Appellant therein was permitted to travel abroad.

18] In the case of **Nikesh Tarachand Shah** [*cited* supra] the Hon'ble Supreme Court while considering the question of fundamental rights pertaining to life and personal liberty, held that fundamental rights, particularly Article 21 of the Constitution of India, were nothing less than sacrosanct and that Constitutional Courts would come to the aid of a person who is able to demonstrate violation of such sacrosanct rights.

19] In the case of **Sumer Singh Salkan** [*cited supra*] the Delhi High Court specifically ruled on LOC issued against the Petitioner. In the said Judgment the Delhi High Court posed certain questions and answered the same in the context of LOCs. Relevant portion of the said Judgment reads as follows:

> *“The questions raised in the reference are as under:*
>
> *"A. What are the categories of cases in which the investigating agency can seek recourse of Look-out-Circular and under what circumstances?*
>
> *B. What procedure is required to be followed by the investigating agency before opening a Look-out-circular?*
>
> *C. What is the remedy available to the person against whom such Look-out-Circular has been opened?*
>
> *D. What is the role of the concerned Court when. such a case is brought before it and under what circumstances, the subordinate courts can intervene?*
>
> *The questions are answered as under:*
>
> *A. Recourse to LOC can be taken by investigating agency in cognizable offences under IPC or other penal laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused*

> *leaving the country to evade trial/arrest.*
>
> *B. The Investigating Oficer shall make a written request for LOC to the officer as notified by the circular of Ministry of Home Affairs, giving details & reasons for seeking LOC. The competent officer alone shall give directions for opening LOC by passing an order in this respect.*
>
> *C. The person against whom LOC is issued must join investigation by appearing before 1.0. or should surrender before the court concerned or should satisfy the court that LOC was wrongly issued against him. He may also approach the officer who ordered issuance of LOC & explain that LOC was wrongly issued against him. LOC can be withdrawn by the authority that issued and can also be rescinded by the trial court where case is pending or having jurisdiction over concerned police station on an application by the person concerned.*
>
> *D. LOC is a coercive measure to make a person surrender to the investigating agency or Court of law. The subordinate courts jurisdiction in affirming or cancelling LOC is commensurate with the jurisdiction of cancellation of NBWs or affirming NBWs.*
>
> *12. The petitions stand disposed of in above terms".*

20] The said Judgment was relied upon by a Division Bench of this Court in the case of **Afzal Jaffer Khan** [*cited supra*]. In the said case, the Division Bench of this Court held that a lookout notice issued after a period of 6 years from the date of registration of crime deserved to be quashed. The Petitioner therein was permitted to travel abroad. It is relevant that the petitioner therein was arraigned as an accused in FIR registered for offence punishable under section 420 of the IPC r/w provisions of Prevention of Corruption Act, 1988. Thus, persons specifically arraigned as accused were also granted relief by this Court and the Hon'ble Supreme Court.

21] In the case of **Sucheta Omprakash Goenka** [*cited supra*] Division Bench of this Court allowed the petition and set aside look out notice by specifically taking note of the fact that the Petitioner therein was neither named in the FIR nor in the charge-sheet. Specific reliance was placed on the above quoted portion of the Judgment of Delhi High Court in the case of **Sumer Singh Salkan** [*cited supra*].

22] In the case of **Karti P. Chidambaram** [*cited supra*] the Madras High Court set aside LOC issued against the petitioner therein. In the said Judgment, the Madras High Court interpreted aforementioned Circulars/office memoranda relied upon by the learned counsel appearing for Respondent No. 2-CBI herein. After considering the purport of the said Circulars/office memoranda, the Madras High Court categorically found that a Writ Court exercising power under Article 226 of the Constitution of India could certainly judicially review the executive decision of issuance of LOCs and if found arbitrary, the same could be set aside. Similarly, in the case of **Shriram Sankaran** [*cited supra*] the Madras High Court set aside an LOC.

23] Thus, it becomes clear from the said Judgments relied upon by the learned senior counsel appearing for the Petitioner that issuance of LOC being an executive action based on aforementioned Circulars/ office memoranda, it is open to judicial review before the Writ Court. In this context, it would be relevant to refer to the said Circulars/office memoranda. A perusal of the same would show that the Union of India issued a letter/circular dated 5/09/1979 to all State Governments and Union Territory Administrations to put in place a mechanism for issuance of warning circulars to immigration authorities and such warnings be considered as look out notices, which would lapse after a period of one year. Office memorandum dated 27/12/2000 issued by Union of India specified that when an LOC was issued in respect of an Indian citizen, it would have to be issued with the approval of an officer not below the rank of Deputy Secretary to the Government of India and that such LOC would be valid for a period of only one year. It was further provided that such LOC could be extended before expiry of the period of one year. Thereafter, office memorandum dated 27/10/2010 was issued, which referred to the aforesaid Judgment of Delhi High Court in the case of **Sumer Singh Salkan** [*cited supra*]. The questions posed by Delhi High Court and answers rendered in that context were quoted in the said office memorandum dated 27/10/2010. Thereafter, a procedure was elaborately stated for issuance of LOCs. Relevant portion providing guidelines for issuance of such LOCs reads as follows:

> *"8. In accordance with the order dated 26.7.2010 of the High Court of Delhi, the matter has been discussed with the concerned agencies and the following guidelines are hereby laid down regarding issuance of LOCs in respect of Indian citizens and foreigners:*
>
> *a) The request for opening an LOC would be made by the agency to Deputy Director, Bureau of Immigration (BoI), East Block-VII, R.K. Puram, New Delhi - 66 (Telefax: 011-*

2619244) in the Proforma enclosed.

b) The request for opening of LOC must invariably be issued with the approval of an officer ***not below the rank of***

i. Deputy Secretary to the Government of India, or

ii. Joint Secretary in the State Government, or

iii. District Magistrate of the District concerned; or

iv. Superintendent of Police (SP) of the District concerned; or

v. SP in CBI or an officer of equivalent level working in CBI; or

vi. Zonal Director in Narcotics Control Bureau (NCB) or an officer of equivalent level (including Assistant Director (Ops.) in Headquarters of NCB) ; or

vii. Deputy Commissioner or an officer of equivalent level in the Directorate of Revenue Intelligence or Central Board of Direct Taxes or Central Board of Excise and Customs; or

viii. Assistant Director of IB/BoI; or

ix. Deputy secretary of R&AW; or

x. An officer not below the level of Superintendent of Police in National Investigation Agency; or *xi. Assistant Director of Enforcement Directorate; or*

xii. Protector of Emigrants in the office of the Protectorate of Emigrants or an officer not below the rank of Deputy Secretary of the Government of India, or

xiii. Designated officer of Interpol.

Further, LOCs can also be issued as per directions of any Criminal Court in India.

c) The name and designation of the officer signing the Proforma for requesting, issuance of an LOC must invariably be mentioned without which the request for issuance of LOC would not be entertained.

d) The contact details of the originator must be provided in column VI of the enclosed Proforma. The contact telephone/mobile number of the respective control room should also be mentioned to ensure proper communication of effective follow up action.

e) Care must be taken by the originating agency to ensure that complete identifying particulars of the person, in respect of whom the LOC is to be opened are indicated in the proforma mentioned above. It should be noted that an LOC cannot be opened unless a minimum of three identifying parameters, as given in the enclosed Proforma, apart from sex and nationality, are available. However, LOC can also be issued if name and passport particulars *of the person concerned are available. It is the responsibility of the originator to constantly review the LOC requests and proactively provide additional parameters to minimize harassment to genuine passengers*

f) The legal liability of the action taken by the immigration authorities in pursuance of the LOC rests with the originating agency.

g) Recourse to LOC is to be taken in cognizable offences under IPC or other penal laws. The details in column IV in the enclosed Proforma regarding 'reason for opening LOC' must invariably be provided without which the subject of an LOC will not be arrested/detained.

h) In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/ arrested or prevented from leaving the country. The originating agency can only request that they be informed about the arrival/departure of the subject in such cases.

i) The LOC will be valid for a period of one year from the date of issue and name of the subject shall be automatically removed from the LOC thereafter unless the concerned agency requests for its renewal within a period of one year. With effect from 1.1.2011, all LOCs with more than one year validity shall be deemed to have lapsed unless the agencies concerned specifically request BoI for continuation of the names in the LOC. However, this *provision for automatic deletion after one year shall not be applicable in following cases:*

a) Ban-entry LOCs issued for watching arrival of wanted persons (which have a specific duration);

b) loss of passport LOCs (which ordinarily continue till the validity of the document);

c) LOCs regarding impounding of passports;

d) LOCs issued at behest of Courts and Interpol

j) In exceptional cases, LOCs can be issued without complete parameters and /or case details against Cl suspects, terrorists, anti-national elements etc. in larger national interest.

k) The following procedure will be adopted in case statutory bodies like the NCW, the NHRC and the National Commission for Protection of Children's Rights request for preventing any Indian/foreigner from leaving India. Such requests along with full necessary facts are first to be brought to the notice of law enforcement agencies like the police. The S.P. concerned will then make the request for issuance of an LOC upon an assessment of the situation, and strictly in terms of the procedure outlined for the purpose. The immigration/emigration authorities will strictly go by the communication received from the officers authorized to open LoCs as detailed in the para 8 (b) above."

24] It is crucial that in the above quoted portion of the office memorandum dated 27/10/2010, it is specified that recourse to issuance of LOC is to be taken in cognizable offences under the IPC or other penal laws. It is also specified therein that in cases where there is no cognizable offence under the IPC or other penal laws, LOC subject cannot be detained/arrested or prevented from leaving the country. The agency which has caused the issuance of LOC can only request that it be informed about arrival/departure of the subject in such cases. This is of significance in the present Writ Petition.

25] Thereafter, office memorandum dated 5/12/2017 was issued, which provided for further contingencies in which LOCs could be issued. In the said office memorandum, it was provided as follows.

> *"In exceptional cases, LOCs can be issued even in such cases, as would not be covered by the guidelines above, whereby departure of a person from India may be declined at the request of any of the authorities mentioned in clause (b) of the above-referred OM, if it appears to such authority based on inputs received that the departure of such person is detrimental to the sovereignty or security*

or integrity of India or that the same is detrimental to the bilateral relations with any country or to the strategic and/or economic interests of India or if such person is allowed to leave, he may potentially indulge in an act of terrorism or offences against the State and/or that such departure ought not be permitted in the larger public interest at any given point in time". Instead of:

"In exceptional cases, LOCs can be issued without complete parameters and/or case details against CI suspects, terrorists, anti-national elements, etc in larger national interest".

26] Thereafter, office memorandum dated 12/10/2018 was issued, which further provided for issuance of LOCs and it stated as follows:

"The undersigned is directed to refer to this Ministry's letter No. OM 25016/31/2010-Imm dated 27.10.2010 and subsequent OM No. 25016/10/2017-Imm(pt) dated 05.12.2017, 19.07.2018 &19.09.2018 on the above mentioned subject and to say that request of the Department of Financial Services, Ministry of Finance to include "Chairman (State Bank of India)/Managing Directors and Chief Executive Officers (MDs and CEOs) of all other Public Sector Banks" in the list of officers who can make a request for opening of Look Out Circulars

> *(LOCs) has been considered in this Ministry.*
>
> *2. It has accordingly been decided, with the approval of the Competent Authority, to add the following as sub-para (xv) in para 8(b) of this Ministry's OM No. 25016/31/2010-Imm dated 27th October, 2010:-*
>
> *"(xv) Chairman/Managing Directors/Chief Executive of all Public Sector Banks"*
>
> *2. The remaining contents of the OM No. 25016/31/2010-Imm dated 27.10.2010 under reference will remain the same".*

27] A perusal of the above referred and above quoted office memoranda would show that in the present case, since the petitioner is not arraigned as accused for cognizable offence and he was merely called for questioning only once by Respondent No. 2-CBI in connection with case of Kingfisher Airlines, travel restrictions could not have been imposed upon him. All that Respondent No. 2-CBI could insist upon, under clause (h) of the office memorandum dated 27.10.2010, was that it be informed about arrival/departure of the petitioner in connection with his trips abroad. It is not even the case of the respondents that if the petitioner is permitted to leave the country it would be detrimental to the sovereignty, security or integrity of India or bilateral relations with any country or to the strategic/economic interests of India. It is also not the case of the respondents that any amounts are to be recovered from the petitioner for which the Chairman of the SBI or any other public sector bank has made a request for issuance of LOC.

28) There can be no doubt that the petitioner needs to co-operate with Respondent No. 2-CBI in that regard. But, it cannot be said that Respondent No. 2 was entitled to impose travel restrictions to prevent the petitioner from travelling abroad. We are of the opinion that in the facts and circumstances of the present case, the Writ Petition deserves to be allowed, although certain conditions need to be imposed on the petitioner in the interest of Justice.

29] In view of above, Writ Petition is allowed in the following terms:

(a) The Petitioner shall be entitled to travel abroad for his personal and professional obligations, subject to the following.

(b) Respondent No. 2-CBI, under the aforementioned office memoranda, would be entitled to being informed about the travel details, including dates of departure and arrival of the petitioner, in and out of India. Accordingly, the petitioner shall inform Respondent No. 2-CBI about his travel details in future when he travels abroad for business or personal visits. He shall give the details of his departure from and arrival in India in connection with such visits. The petitioner shall also inform the respondent no.2 CBI about his address at such destinations abroad during such visits and his contact numbers at such places.

(c) The Respondent No.2-CBI shall furnish to the petitioner details of contact numbers including mobile numbers, e-mail addresses and other details of its officials to whom the petitioner shall provide the details as mentioned in clause (b) above, within two weeks from today.

(d) The Petitioner shall co-operate with Respondent No. 2-CBI if the said Respondent calls upon him to attend its office.

30] It is clarified that if any incriminating material is found by Respondent no. 2-CBI to proceed against the Petitioner in accordance with law, the instant Judgment and Order will not come in the way of the said Respondent.

31] Rule is made absolute in above terms and the Writ Petition stands disposed of.

[MANISH PITALE, J.] **[S. S. SHINDE, J.]**