

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.7302 of 2021
and W.M.P.Nos.7808 of 2021

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

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents, more particularly, second respondent to forthwith lift the Lookout Circular in F.No.ECIR/CEZO/I/01/2018 and allow the petitioner herein to travel to Singapore, Malaysia and United Kingdom from 24.03.2021 till 30.06.2021.

For Petitioner :Mr.B.Kumar, Senior Counsel
for Mr.B.Sathishsundar

For Respondents :Mr.A.Kumaraguru,
Senior Central Govt. Standing counsel-R1
Mr.N.Ramesh,
Special Public Prosecutor for R2

O R D E R

The petitioner seeks a direction to the second respondent to allow him to travel to Singapore, Malaysia and United Kingdom

from 24.03.2021 till 30.06.2021, by lifting the Lookout Circular in F.No.ECIR/CEZO/I/01/2018.

2. Heard Mr.B.Kumar, learned Senior Counsel for the petitioner and Mr.A.Kumaraguru and Mr.N.Ramesh, on behalf of the official respondents and also perused the materials placed before this Court.

3. The petitioner filed W.P.No.3949 of 2020 seeking similar relief for the period from February, 2020 to 31.05.2020. The said writ petition was disposed of by this Court on 10.03.2020 allowing the petitioner to travel out of country for the specified period with certain conditions, after appreciating the factual position. While passing the said order, this Court also took into account the order dated 07.02.2020 passed by the Special Court (PC Act), Rouse Avenue District Court, Delhi, in RC No.221/2018/E0003/CBI/EOU-VII-EO-III/New Delhi. Now, there is no much difference in the factual position, excepting the claim of the respondents that the investigation is at the crucial stage and his presence is very much essential.

4. The respondents claimed that the Provisional Attachment Order was issued on 28.02.2020 attaching certain properties of the petitioner and the same is pending before the Hon'ble Adjudicating Authority, PMLA, New Delhi, in terms of Section 8 of the PMLA, 2002 and the prosecution complaint, as contemplated under Section 45 of the PMLA Act, would be filed. The respondents also claimed that though the petitioner alleged that he was interrogated for long hours and he was co-operative, the petitioner never produced crucial documents required for investigation, which are very crucial for the investigation and he had been giving evasive replies upon confrontation of incriminating documents. The respondents also stated that earlier the petitioner was granted permission to travel abroad only up till 31.05.2020, but he sought for extensions of time periodically till 28.02.2021, which proves his conduct of not co-operating in the investigation.

5. The respondents, in paragraph 12 of the counter-affidavit opposing the prayer of the petitioner, claimed that the petitioner had not produced crucial documents required for investigation, namely, the bank account statements of the companies, such as CNO LLC/CNO DMCC, invoices raised by actual suppliers of coal on CNO LLC/CNO DMCC, invoices raised by actual supplies of coal on those companies. However, the learned Senior Counsel for the petitioner brought to the notice of this Court that those documents have been furnished to the second respondent and the same have been annexed as Sl.No.2 in Annexure B to the complaint dated 19.03.2020 filed by the second respondent before the Adjudicating Authority under the PMLA,

2002, New Delhi. The learned Senior Counsel for the petitioner also submitted that the petitioner is ready and willing to furnish any other documents required by the second respondent.

6. The claim of the respondents that the conduct of the petitioner in overstaying at abroad beyond the originally permitted period proves his non-cooperation for the investigation cannot be accepted for the simple reason that the petitioner was constrained to continue to stay in the foreign land on account of COVID-19 and the resultant lockdown and non-availability of flights, which is evident from the perusal of the orders passed by this Court granting extension of time to stay abroad.

7. The Special Court (PC Act), CBI-16, Rouse Avenue District Court, Delhi, passed the order dated 15.03.2021 permitting the petitioner to travel abroad from 16.03.2021 to 30.06.2021, by suspending the LOC till 30.06.2021, on the same terms and conditions that have been imposed in its earlier order dated 07.02.2020. The learned Senior Counsel for the petitioner as well as the Special Public Prosecutor for the second respondent submitted that similar conditions may be imposed for the present travel also by suspending the LOC issued by the second respondent till 30.06.2021.

8. In view of aforesaid discussion, this Court is of the view that without expressing any view on the other contentions raised by both parties, the petitioner shall be granted the relief sought for on the same terms and conditions. Accordingly, the LOC issued by the second respondent shall remain suspended till 30.06.2021, so as to enable the petitioner to travel abroad, namely, Singapore, Malaysia and United Kingdom, any day on and from 27.04.2021 till 30.06.2021, on compliance of the following conditions :

i) The petitioner shall maintain the FDR of Rs.50 lakhs submitted with the second respondent alive until further orders of the Court.

ii) The petitioner shall furnish details of his itinerary to the second respondent before the departure, and shall intimate him upon arrival.

iii) The petitioner shall give his mobile number to the second respondent and keep the said number in working mode 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.

9. As has been observed by this Court in the order dated 10.03.2020, this order suspending the LOC till 30.06.2021 only is passed on the above stated facts and circumstances and that the petitioner shall avoid seeking extension of suspension for any future period on any reasons, excepting COVID-19 situation.

10. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS IV)

True Copy

Sub-Assistant Registrar

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To

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

+2 CC to Mr.B.Sathishsundar, Advocate sr 25586.

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SP(28/04/2021)