

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 34267 OF 2022
WITH
INTERIM APPLICATION NO. 4866 OF 2022
IN
WRIT PETITION (L) NO. 34267 OF 2022

Aamir Abdul Razak Tohid alias Furniturewala ...Petitioner
Versus
Union of India through the Government Pleader ...Respondents
& Anr

Dr Abhinav Chandrachud, *i/b Zoheb Shaikh, for the Petitioner.*
Mr Sandeep Raman, *with Siddhantrao Molankar, Advait Sethna for*
Respondents Nos. 1 & 2.
Mr AR Bamne, *i/b AR Bamne & Co, for Respondent No. 3.*

CORAM **G.S. Patel &**
 Sharmila U. Deshmukh, JJ.
DATED: **23rd November 2022**

PC:-

1. Heard.
2. The Petitioner was confronted with a look out circular or LOC issued at the instance of the Bank of Baroda and prevented on

27th October 2021 at the immigration counter CSIA Mumbai from travelling overseas.

3. Dr Chandrachud for the Petitioner seeks leave to amend to include a prayer challenging the office memoranda under which the LOC is issued as also to add necessary grounds of challenge. Leave granted. Amendment to be carried out by 12th December 2022 without need of re-verification. A copy of the amended Petition will have to be served on the Respondents or their advocates.

4. The present application is for ad interim relief to permit the Petitioner to travel overseas from 1st December 2022 to 5th December 2022 to attend the tournament in Doha in the Middle East.

5. Dr Chandrachud submits that the purpose of the travel is entirely immaterial and Supreme Court has in fact said that once there is a fundamental right established under the Constitution, being the right to travel freely, the purpose of the travel is not a determinative factor. Nobody has attempted to cancel the Petitioner's passport under any law. Thus, the travel may even be for leisure. The question is whether there can be a restriction in this manner on such a fundamental right. He submits that the Petitioner's fundamental rights ought not to be curtailed merely because of the stated purpose of the Petitioner's visit. The Petitioner, after all, has made no attempt to disguise the purpose of his visit by making any other claim.

6. The LOC, he points out is, issued because at some distant historical time the Petitioner as a young man apparently signed certain documents relating to borrowings by a family-controlled company, Hanjer Biotech Energy Pvt Ltd, from the erstwhile Dena Bank, now taken over by the Bank of Baroda. The Petitioner himself was not in active management of Hanjer Biotech although, Dr Chandrachud submits, this makes no difference whatsoever. He was not himself a borrower.

7. Prima facie, there is a considerable substance to the submissions. Look out circulars and more importantly the office memoranda on which these LOCs are based (including recent amendments to the office memoranda) were challenged in large group of Petitions. That batch of Writ Petitions was heard at length by a Bench of one of us was a member (GS Patel J) along with Madhav J Jamdar J. Judgment has been reserved and will be pronounced shortly. All concerned including the banks were heard at that time as was the learned Additional Solicitor General Mr Anil Singh for and on behalf of the Union of India and the Bureau of Immigration. It is clear to us that this Petition as it stands and certainly after the amendment that we have permitted is of a class with those Writ Petitions.

8. We have also in many other matters permitted individual Petitioners to travel abroad subject to certain conditions which are of necessity imposed by the Court and are purely interim or *pro tem* measures pending the final judgment in that group of petitions. We

therefore grant the Petitioner's permission subject to the usual conditions viz.:-

- (a) the Petitioner is to file an undertaking to return to this country at the end of this period, if not already done;
- (b) the Petitioner is to file a detailed itinerary with his contact details and addresses overseas, if not already done;
- (c) The Petitioner must file an undertaking (if not already done) not to apply for renewal or extension of this order until he returns to this country.

9. Subject to these conditions, the LOCs in question against the Petitioner are stayed until 6th December 2022.

10. The immigration authorities at all ports of departure including all airports will permit the Petitioner passage and permit the Petitioner to take his flight out of the country irrespective of whether the Bank of Baroda has notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or not.

11. The immigration authorities will not ask for a certified copy of this order but will act on presentation of an authenticated or digitally signed copy of this order.

(Sharmila U. Deshmukh, J)

(G. S. Patel, J)