

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2413 OF 2022****WITH****INTERIM APPLICATION NO. 765 OF 2023****Vastupal Hasmukhlal Shah****...Petitioner****Versus****1. The State of Maharashtra****2. The Central Bureau of Investigation****...Respondents**

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Mr. Mikhail Dey i/by Mr. Dinesh Tiwari, Advocate for
Petitioner/Applicant.

Mr. Nikhil G. Hire i/by Mr. Kuldeep Patil for Respondent No.2/CBI.

Ms. Pallavi N. Dabholkar, APP for Respondent No.1/State.

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CORAM : PRAKASH D.NAIK, J.**DATE : 17th JULY, 2023.**

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1. The Petitioner has challenged the order dated 18th June 2022 passed by Special Judge (CBI) below Exh. 667 rejecting the application for lifting Look Out Circular (L.O.C.) issued by Respondent No.2 against him.

2. The Petitioner came to India on 29th November 2021. He was summoned for investigation. The Petitioner attended the Investigating Agency. It is alleged that the petitioner was working as accountant in the company of the accused. L.O.C. has been issued against the petitioner

which prevent him from travelling abroad.

3. The Petitioner preferred application before the Special Judge for suspension of L.O.C.. The application was opposed by CBI by filing reply. Vide order dated 18th June 2022, the trial Court rejected the application.

4. Petitioner had contended before the trial Court that he has no connection with the crime under investigation. He has attended the office of Respondent/CBI on various dates. The investigating Agency is investigating role of Mr. Jatin Mehta, Mrs. Snia Mehta and Mr. Vishal Mehta in the alleged crime. The Petitioner was working as an Accountant in the company of Mr. Jatin Mehta along with others. The Petitioner has co-operated with the investigation. He was interrogated. There is no just cause for issuing look out circular against the petitioner. The Petitioner had gone to Dubai about 15 years ago. He has been working for various companies. He has changed number of companies. Apart from salary, he has not received any amount. His wife and children are at Dubai. He came to India from Dubai. He has continued to be in India for long time. His residency permit would expire, if he remains away.

5. The application was opposed by CBI on the ground that the petitioner was employed as accountant with various firms of Mr. Jatin Mehta and his family. Petitioner was confident of Mr. Jatin Mehta, the principal accused. The petitioner was accomplice of the said accused. Investigation is in

progress. Investigation is also conducted in other 15 cases. There are many documents and facts which needs to be confronted with the petitioner. The role of Petitioner is under investigation. He was instrumental in aiding and abetting the principal accused, if the petitioner is allowed to travel to Dubai, he may destroy the evidence and tamper with the witnesses. The trial Court rejected the application on the ground that, the petitioner did not dispute the fact that once upon a time he had worked for Mr. Jatin Mehta and Mrs. Sonia Mehta as an accountant with their various firms. It is alleged that the petitioner is accomplice of Mr. Jatin Mehta and and Mrs. Sonia Mehta. It is alleged that, petitioner has forged the signatures of other employees of Mr.Jatin Mehta. He had been evading the CBI office since 2022. The learned Special Judge rejected the application on 18th June 2022.

6. The Petitioner has filed Interim Application No.765 of 2023 on 14th February 2023 praying for grant of permission to travel to Dubai during the pendency of the petition. The petitioner has filed Additional Affidavit dated 9th June 2023 stating that the petitioner has not been provided copy of LOC. One of the Chartered Accountants, who was supposed to be controlling entire accounting activities has been granted anticipatory bail. His LOC has been lifted by the Sessions Court. The Petitioner was supposed to reach Dubai before 30th June, 2023 for renewal of residency permit. His wife and two children are dependent upon him. Hence, the LOC may be suspended

and petitioner be permitted to travel abroad.

7. Learned Advocate for the Petitioner submitted that the petitioner cannot be restrained from travelling abroad from indefinite period. The petitioner had already co-operated with the investigation. The main accused are absconding. Petitioner was in Dubai with his family. He has been separated from his family. There is no evidence against the petitioner showing his involvement in the crime. Petitioner is suffering professional losses. Respondent has registered several cases and investigation is going on since long. Main accused are not available. Petitioner is being harassed unnecessarily. He cannot be deprived of his rights to travel abroad.

8. Reliance is placed on the decisions of this Court in the case of **Om Prakash Bhatt Vs. State of Maharashtra and Others**¹ and the decision in the case of **Noor Paul Vs. Union of India and Ors.**².

9. Learned Advocate for Respondent/C.B.I. vehemently opposed the application. It is submitted that the FIR No.RCBSM 2016 E 0015 CBI, BS and FC, Mumbai was registered on 24th June 2016. Offences were registered under Section 120-B read with 420 of Indian Penal Code, 1860 and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988. Section 409 of I.P.C. was invoked subsequently. Charge-sheet was filed on 8th June 2018 and case is pending before the Special Court vide

1 2021 SCC OnLine Bom 555

2 2022 LiveLaw (PH) 69

C.B.I. Special Case No. 43 of 2018. Further investigation under Section 173(8) of Cr.P.C. is kept open. C.B.I. has registered 16 cases against Forever Precious Jewellery and Diamonds Limited and Winsome Diamonds and Jewellery Limited. There has been losses of Rs.5556.25 Crores to the Consortium of Seven Public Sector Banks. The cases pertain to allegations of fraud committed in working capital credit accounts of two companies mentioned above in two separate Consortia of Banks. Mr. Jatin Mehta was the promoter and guarantor of both these companies. Both these companies were engaged in business of gold jewellery and diamonds. The applicant was employed as accountant with various firms of Mr. Jatin Mehta and his family member. Investigation reveals his involvement in the crime. The trial Court has issued letters Rogatory to nine countries, responses are awaited. Investigation in 15 other cases is active. The role of applicant is under investigation. He was instrumental in abetting and aiding of Mr. Jatin Mehta. If he is allowed to travel to Dubai, he may destroy evidence and tamper with the witnesses. Investigation reveals that he has forged signatures of other employee of Mr. Mehta.

10. It is true that the petitioner was at Dubai since long. He came to India. He intends to go back Dubai. From the reply filed by Respondent/CBI, it is apparent that investigation is in progress. Offence is serious. Investigation is going on larger scale. Several cases are registered.

Huge amount is misappropriated. The petitioner was accountant with firm of Mr.Jatin Mehta. He was close confident of Mr.Jatin Mehta. According to Respondent, he has abetted and aided the principal accused in commission of fraud. The investigation in other 15 cases is in progress. It is revealed during investigation that petitioner has forged signature of other employees of Mr.Mehta. Looking at the gravity of the crime and the fact that the investigation is in progress, the LOC cannot be suspended to facilitate the petitioner to leave India. This Court is conscious of the fact that the investigation is going on since long but considering the stage of investigation and the magnitude of offence, it would not be appropriate to grant relief prayed in this petition/application at this stage however, liberty can be granted to the petitioner to renew his prayer after stipulated time.

ORDER

- i. Writ Petition No. 2413 of 2022 is rejected and disposed of.
- ii. Liberty to prefer fresh petition after a period of nine months.
- iii. Interim Application No. 765 of 2023 is disposed of.

(PRAKASH D. NAIK, J.)