



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision : 24.05.2023***

+ **W.P.(CRL) 275/2023 AND CRL.M.A. 13582/2023**

SANDEEP SINGH DESWAL

..... Petitioner

Through: Mr. Uday Gupta, Mr. Harish Dasan, Ms. Shivani M. Lal, Mr. M.K.Tripathi, Ms. Yogamaya, M.G., Ms. Preeti Chauhan, and Mr. Hiren Dasan, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC for the State with Mr. Kunal Mittal and Mr. Saurabh Tanwar, Advocates.
Insp. Pankaj Kumar, P.S.EOW.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India r/w Section 482 Cr.P.C. seeking withdrawal or deletion of the Look Out Circular (LOC) issued against the Petitioner.

2. In brief the facts of the case are that the complainant, namely, Param Preet Singh alleged that one Harinder Singh in conspiracy with Sandeep Singh Deswal (petitioner herein), Sunil Kumar Dahiya and



Sanjay Kumar Dahiya (both directors of the accused company M/s V Corp Developers Pvt. Ltd.), induced him to sell his immovable property bearing No.T-28/2, DLF-3, Gurgaon, Haryana under the condition that the sale amount will have to be invested back in M/s V Corp Developers Pvt. Ltd. which was developing a project namely, Manhattan Business Suits at Sector 74/35, Gurgaon, Haryana with the assurance of a handsome return on investment.

3. It is further alleged that an Agreement to sell dated 14.04.2014 was executed between the complainant Param Preet Singh, M/s V Corp Developers Pvt. Ltd. and Santosh Rani Dhariwal w/o Sandeep Singh Deswal (petitioner) for total consideration of Rs. 7 crores. A total sum of Rs. 4.80 crores was received against the consideration of aforesaid property in the bank account of complainant Param Preet Singh from the bank account of the petitioner. The said amount was further transferred to M/s V Corp Developers Pvt. Ltd, which allotted units to the complainant in aforesaid project. M/s V Corp Developers Pvt. Ltd. further transferred Rs.4.80 crores to the bank account of the petitioner. However, remaining Rs. 1.90 Crores was not paid to the complainant by the accused persons. It is also alleged by another complainant, namely, Tejpal Sharma that all the accused persons cheated him to the tune of Rs.1,55,00,000/- and made similar allegations.

4. During investigation, accused Sunil Dahiya and Sanjay Dahiya, who were in judicial custody in another case were formally arrested. The petitioner, namely, Sandeep Singh Deswal did not join the



investigation despite several notices issued to him and hence, Look Out Circular (LOC) against the petitioner was opened in the year 2019.

5. I have heard the learned counsel for the petitioner, learned ASC for the State and perused the status reports filed by the State.

6. Ld. Counsel for the petitioner submitted that the petitioner seeks withdrawal/ deletion of the Look Out Circular (LOC) issued against the petitioner as he has been falsely implicated by the complainant and he was never given any notice by respondent on proposal of opening of LOC against him and was also not informed of the reasons for opening of the said LOC. He further submitted that the petitioner was on no occasion asked to join investigation by way of issuance of warrants and even after filing of the chargesheet, the petitioner has neither been apprehended in the present case till date nor has been summoned by the learned Trial Court. He submitted that the petitioner has travelled abroad on eleven occasions during pendency of complaint against him and also after registration of FIR and on all the occasions he came back, joined and cooperated in the investigation as per directions of the investigating officer, therefore, there is no possibility of the petitioner not returning to India after his travels to USA. He further submitted that the petitioner was a green card holder of USA and he had voluntarily surrendered his green card and now, he is travelling on a tourist visa. He submitted that the LOC has seriously impinged on his travel to meet his children and family who live in the USA. He further submitted that the respondent's bald plea



that there is an apprehension that the petitioner would misuse the liberty and may not come back to face the proceedings cannot be accepted when in fact, the petitioner has duly joined and cooperated in the investigation. Lastly, it is submitted by Ld. counsel for the petitioner that it is an admitted position that since the petitioner is joining the investigation, no further purpose will be served by continuance of the impugned LOC.

7. On the other hand, Ld. ASC for the State has vehemently opposed the present petition and submitted that during the course of investigation, petitioner failed to join the investigation despite the notices issued to him and hence, Look Out Circular was opened against the petitioner in the year 2019. He submitted that it was only on 12.01.2020 that the petitioner was apprehended at the airport and subsequently, he joined the investigation. He further submitted that the petitioner is the direct beneficiary of Rs.4.80 crore and the property T-28/2, DLF-3, Gurgaon, Haryana was transferred in the name of his wife Santosh Rani Dhariwal and later on, she sold the same for Rs. 5 Crores. Ld. ASC for the State submitted that after completion of investigation, the main chargesheet alongwith the supplementary chargesheet including the FSL result has been filed against the accused persons including the petitioner. Lastly, he submitted that there is a strong apprehension that the petitioner would misuse the liberty and may not come back to face the proceedings in relation to the chargesheet which has already been filed.



8. The case of the petitioner is that the petitioner has travelled abroad on eleven occasions during pendency of complaint against him and after registration of the present FIR, and has been joining and cooperating in the investigation. The children of the petitioner are living in the USA and the continuance of LOC has seriously impinged on his travel to meet his children and family.

9. In *E.V. Perumal Samy Reddy & Ors. vs. State represented by the Deputy Commissioner of Police & Anr. [MANU/TN/2308/2013]*, the Hon'ble Madras High Court observed that the following types of persons can be included in the LOC:

- i. Persons with Terrorists or Militant Links;
- ii. Belligerent Foreigners;
- iii. Foreigners previously noticed for violations of visa conditions;
- iv. Persons required by courts in criminal/civil cases who are absconding;
- v. Absconding Offenders wanted by Police/ CBI/ Custom /Central excise/ Directorate of Rev. Intelligence/other agencies.

10. Apparently, the present petitioner does not fall in any of the above categories as there are no allegations against the petitioner that he ever absconded. In fact, the petitioner has joined the investigation and even after filing of the chargesheet, the petitioner has neither been apprehended in the present case till date nor has been summoned by the learned Trial Court.



11. It is trite law that right to travel is a valuable fundamental right and should be curtailed only in exceptional circumstances. In the instant case, it is an admitted position that the main chargesheet has been filed against the petitioner without apprehending him and the Ld. Trial Court has also, summoned only two accused persons while the remaining three accused persons including the present petitioner have not been summoned till date. Therefore, in my opinion, the case at hand does not fall within the purview of an exceptional circumstance.

12. The issuance of LOC is a coercive measure aimed at ensuring that an accused appears before the investigating agency and/or a court of law, however, this power is to be used sparingly only in exceptional cases. LOC is not to be issued in a routine manner as it may affect the liberty of an accused and mere suspicion of accused not returning to India after his travels when the accused has travelled abroad on numerous occasions, has never misused the liberty granted to travel abroad on earlier occasions and has surrendered on time, in my view, cannot be accepted as the basis for rejecting the present petition and hence, the LOC cannot be continued against the petitioner for an indefinite period.

13. Therefore, keeping in view the above facts and circumstances, there is no justification whatsoever in keeping the present LOC alive. The writ petition is accordingly, allowed and the concerned authority is directed to withdraw the Look Out Circular issued against the present petitioner, namely, Sandeep Singh Deswal. However, the following conditions are imposed on the petitioner:



- a) That the petitioner shall join the investigation as and when called by the investigating officer. However, the investigating officer shall give him atleast 7 days prior notice;
- b) That he shall co-operate in the investigation;
- c) That in case the petitioner proposes to travel beyond USA, he shall furnish details of the country (ies) with his complete itinerary to the concerned investigating officer.

14. With the aforesaid directions, the petition alongwith pending application stands disposed of accordingly.

15. The next date of hearing i.e., 17.07.2023 stands cancelled.

16. Nothing stated hereinabove shall impact any proceedings which have been or which may be initiated against the petitioner.

RAJNISH BHATNAGAR, J

MAY 24, 2023

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