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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 10.10.2023
Pronounced on: 31.10.2023

+ **CRL.M.C. 5012/2023**

JAI PRAKASH SINGHAL Petitioner
 Through: Mr. Tanmaya Mehta, Mr. Lalit
 Valecha, Ms. Taniya Bali and
 Mr. Sameer Chopra,
 Advocates

versus

DIRECTORATE OF ENFORCEMENT Respondent
 Through: Mr. Zoheb Hossain, Mr. Vivek
 Gurnani and Mr. Kartik
 Sabharwal, Advocates.

+ **CRL.M.C. 5013/2023**

JAI PRAKASH SINGHAL Petitioner
 Through: Mr. Tanmaya Mehta, Mr. Lalit
 Valecha, Ms. Taniya Bali and
 Mr. Sameer Chopra,
 Advocates.

versus

STATE OF NCT OF DELHI Respondent
 Through: Ms. Nandita Rao, ASC
 (Criminal) with Mr. Akhanel
 Partap and Mr. Jasraj Singh
 Chhabra, Advocates for State.
 ACP Virender Kadyan and
 Inspector Shikhar Chaudhry,
 PS – EOW.



CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of these petitions filed under Section 482 of the Code of Criminal Procedure, 1973 (‘Cr.P.C.’), the petitioner seeks setting aside of common order dated 08.07.2023 passed by learned Additional Sessions Judge-03, New Delhi District, Patiala House Courts, New Delhi in ECIR/DLZO-II/54/2021 registered by Directorate of Enforcement, and FIR No. 208/2021, registered at Police Station Special Cell (EOW) under Sections 419/420/120B/384/386 of Indian Penal Code, 1860 (‘IPC’) and under Section 3/4 of Maharashtra Control of Organised Crime Act, 1999 (‘MCOCA’).

2. The grievance of the petitioner is that the learned ASJ *vide* order dated 08.07.2023 had dismissed the application filed by him seeking permission to travel abroad to Dubai for 30 days for appointing a responsible person to look after his business, and prays that the impugned order be set aside and he be granted the permission to travel aboard for the said purpose.

3. Learned counsel for the petitioner argues that the present case, the petitioner himself had travelled back to India to join investigation out of his own free will. It is argued that the proceedings under Section 82 of Cr.P.C. were dropped against him by the learned ASJ *vide* order dated 10.04.2023 and he was granted anticipatory bail on



20.04.2023 while he was still in Dubai, UAE. It is also stated that the Look-Out Circular ('LOC') opened against the petitioner by the State/EOW was cancelled by the learned ASJ *vide* order dated 26.04.2023. It is submitted that after the petitioner had returned to India and joined investigation in present FIR, he was arrested by the Directorate of Enforcement on 01.05.2023 and in the said ECIR also, he was released on regular bail *vide* order dated 08.06.2023 by the learned ASJ. It is argued that right to travel abroad is guaranteed under Article 21 of the Indian Constitution, and refusal to allow the petitioner to travel abroad for business purposes amounts to deprivation of personal liberty of the petitioner who is already enlarged on bail. Learned counsel for the petitioner further states that he has placed on record all the relevant documents regarding the permanent address of the petitioner as well as his business in Dubai to which he wants to attend to, and therefore, it is prayed that present petitions be allowed and petitioner be granted permission to travel to Dubai for a period of 30 days.

4. Vehemently opposing the present petitions, learned Special Counsel for Directorate of Enforcement states that an LOC already stands opened by the ED as well as the Income Tax Department which has not been cancelled yet. It is argued that the petitioner is an international *hawala* operator based in Dubai and he had aided the main accused Sukash Chandrashekhkar in transferring an amount of Rs. 24 crore to Dubai. It is stated that petitioner has no roots in India and is a flight risk, and that the application seeking cancellation of bail granted to the petitioner herein is pending adjudication and is



listed for 09.01.2024. It is also argued that the learned ASJ has passed a reasoned order discussing therein that the petitioner had not provided his permanent address or the details regarding his business or jewellery there, therefore, the Court has rightly rejected his application for grant of permission to travel abroad.

5. Learned ASC for the State also argued that investigation is still pending against the present accused/petitioner in the present FIR. It is also stated that the major son of the petitioner is already a Director in the company of the petitioner and is looking after the business, and the petitioner has not provided any specific reasons for which he needs to travel abroad. It is also stated that on 14.04.2023, the lease/tenancy pertaining to the residence of the petitioner in Dubai has also expired. Therefore, it is submitted that these petitions be dismissed.

6. This Court has heard arguments addressed by learned counsel for the petitioner and learned counsels for the Directorate of Enforcement and State, and has gone through the material placed on record.

7. The impugned order dated 08.07.2023 passed by the learned ASJ, dismissing the applications seeking permission to travel abroad, reads as under:

“...This is an application **moved** by accused Jai Prakash Singhal seeking permission to visit Dubai, UAE for 30 days period from 10.07.2023 to 09.08.2023.

It is important to note that similar application with similar prayer has been moved in **the** matter of HD arising out of FIR No.54/202 .



It is stated in the **application** that applicant is resident of Dubai and living there with his family since 14.08.2021 and this fact is not disputed. It is further stated that accused/applicant has been carrying out jewelry business there in Dubai and this fact has also not been disputed by prosecution. Thus, it is prayed that he may be permitted to travel to Dubai for enabling him to get into his jewelry business on track there in Dubai.

Reference in the application has also been given that earlier applicant was granted anticipatory bail in FIR No.208/2021, thereupon he joined the investigation in the investigation of that case. However later when he was staying in Taj Hotel , Income Tax Department as well as ED conducted search proceedings in the room where he was staying. It is stated that later accused was granted bail even in ED matter. Present applications have been moved because in the bail order condition was imposed that accused would not leave the country without permission from the court.

Sh. Akhand Pratap Singh, Id. SPP for State while filing the reply, copy supplied, raised the objection for traveling to Dubai as he submits that there is **absolute** dispute with regard to the fact that accused is resident of Dubai and that he is carrying out jewelry business over there. Id. SPP for State rather submits that prosecution has rather made specific allegation that accused/applicant has been indulged in hawala transaction from Dubai as well as in India. It is also stated in reply of State that investigation qua applicant is at initial stage and that accused/applicant may evade from investigation as well as from trial if permitted to travel to Dubai .

Similar are the objections of Sh. Suraj Rathi, Id . SPP for ED who has also filed the reply for the application moved for ED matter. Copy supplied. Id. Counsel for the applicant submits that even if prosecution might be disputing above referred facts, fact remains that applicant has been residing in Dubai earlier and therefore has a right to visit Dubai for enabling him to carry on his business there as it is a fundamental right. Id. Counsel further submits that he is ready to abide by the **terms** if any imposed.

Having considered the submissions, there can hardly be any dispute to the fact that every **person** has a right of movement and to travel anywhere, that being a component of fundamental right under Article 21 of Constitution. However such right is not an absolute right and is subject to certain



restrictions, conditions which are necessary for effective due process of law. As a general rule court acknowledge permission for traveling abroad but in certain situations, such permission can be denied for due process of law. In the present case investigation in FIR No.208/2021 as well as in ED matter is going on qua accused / applicant. Application is not supported by any document to show the permanent address of the accused in Dubai or that he is carrying on any business of jewelry there. In such circumstances when no details have been given about the place where the applicant is going to stay, other details as well as when the very purpose for going to Dubai i .c. jewelry business of the applicant has been denied and disputed by the Agency, at this stage when lie may be required in the investigation of matter, no ease is made out for grant of permission to travel Dubai. Applications accordingly dismissed...”

8. In the present case, an FIR was registered against unknown persons by the Special Cell of Delhi Police under Sections 170/384/386/388/419/420/506/120B of IPC and Section 66D of Information Technology Act, 2000, on the basis of a complaint filed by the complainant on 07.08.2021, regarding a call being received for extortion of money to the tune of Rs. 200 crores by unknown persons. A trap was laid and accused Pradeep Ramdanee @ Rajesh and Deepak Ramnani @ Rohit who used to collect cash from complainant on the instructions of Sukash Chandrashekhar were caught. On 08.08.2021, Special Cell of Delhi Police arrested main accused Sukash Chandrashekhar from Rohini Jail who had impersonated himself as a senior government officer and had extorted more than Rs. 200 crore from the complainant by luring her that government of India will solve all the issues relating to the business of her husband and would like to work with them in health care. As



alleged, Deepak Ramnani and his brother Pradeep Ramdanee were entrusted to collect the cash on instructions of Sukash Chandrashekhar and deliver it to various beneficiaries within and outside the country. The EOW in its investigation established that Jai Prakash Singhal i.e. present petitioner had arranged 18 shell companies to Komal Poddar for transferring money of the complainant to Dubai through RTGS/Cash for accused Sukash Chandrashekhar. The chargesheet also reveals that the complainants had transferred Rs. 31.54 crore from their RBL Bank accounts to various firms/companies through RTGS as per instructions of RBL Bank manager Komal Poddar and his associates to send money to persons in Dubai as per codes and instructions given by Sukash Chandrashekhar. During investigation, Komal Poddar, Manager of RBL Bank disclosed that he with the help of his associates had cheated the complainant on the pretext of helping and transferring their money deposited in RBL Bank accounts to the desired destinations. He had managed the transactions through his associates Avinash and Jitender Narula through 18 shell companies. He had informed that total money transferred through them was Rs. 31.50 crore, and around Rs. 24 crore was transferred to Dubai. Remaining Rs. 7.20 crore was to be transferred by them on 12.02.2021 to 07 shell companies through RTGS which were misappropriated by them. During investigation by EOW, the co-accused Avinash and Jitender Narula disclosed that they, in conspiracy with their friend Komal Poddar, had provided 18 shell companies to him for transferring the money of the complainant family to Dubai with the help of *hawala*



operator i.e. present accused/petitioner Jai Prakash Singhal, who facilitated sending the money to Dubai. They had transferred approximately Rs. 24 crore to Dubai out of Rs. 31.54 crore as per the token/code provided by complainant, received from accused Sukash Chandrashekhar, to Komal Poddar. The details of 18 shell companies arranged by the present accused/petitioner Jai Prakash Singhal were mentioned in the investigation. Simultaneously, an ECIR dated 08.08.2021 was recorded to investigate the offence of money laundering under Sections 3/4 of Prevention of Money Laundering Act, 2002 ('PMLA'). During investigation under PMLA, the modus operandi of the accused persons was discovered and it was revealed that the present petitioner is an international *hawala* operator based in Dubai. The petitioner had returned to India on 25.04.2023 after a period of two years, and he claimed that he was running a jewellery business in Dubai. A search was conducted under Section 17 of PMLA at the hotel room where the petitioner was staying, and from the digital devices recovered from him, various suspicious *hawala* transactions details were discovered, which are under investigation. The statement of petitioner was recorded in which he revealed that he had been involved in carrying out *hawala* transactions and had maintained their details in the tally software at his Dubai office. As per the case of Directorate of Enforcement, the petitioner has assisted Sukash Chandrashekhar in transferring Rs. 24 crore to Dubai out of the total of Rs. 31.5 crore received from complainant. Further, the petitioner has received proceeds of crime generated in the form of commission for transferring the proceeds of crime to Dubai. It is also



stated that during investigation, it was revealed that the present petitioner used to provide the name and bank account details of 18 firms/companies in whose account the complainants had transferred their money through RTGS.

9. In the present case, this Court is of the opinion that though it is not disputed that the proclamation issued under Section 82 of Cr.P.C. in relation to present FIR was set aside *vide* order dated 10.04.2023 and that the petitioner was granted anticipatory bail in this case *vide* order dated 20.04.2023, one of the conditions in the order by virtue of which he was granted anticipatory bail was that he will not leave the country without the permission of the Court. Thus, the anticipatory bail granted to him was by way of a conditional order, which was accepted by the petitioner and he had returned to India on 25.04.2023. The LOC opened by the State/EOW also stands cancelled *vide* order dated 26.04.2023. However, the LOC opened by the Directorate of Enforcement has neither been cancelled nor quashed and remains in existence, alongwith an another LOC opened by the Income Tax Department. Further, while granting regular bail to the petitioner in the case arising out of ECIR dated 08.08.2021 also, the condition to seek prior permission of the Court before travelling abroad was imposed by the learned ASJ.

10. As per the submissions made on behalf of State, it has verified the rent/tenancy contract pertaining to the residential address of the petitioner in Dubai, and the records reveal that the tenancy contract had expired on 14.04.2023 and therefore, the petitioner arrived in India on 25.04.2023 and has been residing in India since then. It is



not disputed that the entire family of the petitioner stays in Dubai, but there is no permanent address of Dubai. Further, the main contention raised on behalf of the petitioner is that he has to depute a responsible person for looking after his business, however, this Court has been informed that the petitioner has a major son who is a License Member/Manager in the company i.e. Eagle Empire General Traing LLC, who is looking after and can look after the business, if any, of the petitioner.

11. The investigation against the petitioner is pending in both the cases i.e. in FIR registered by the Special Cell (EOW) and in the ECIR registered by the Directorate of Enforcement. The liberty and the fundamental right under Article 21 of the Indian Constitution to travel abroad is not absolute and is subject to reasonable restrictions, and this restriction was imposed upon the petitioner while he was granted anticipatory bail in the present FIR and regular bail in the present ECIR. In this Court's opinion, learned ASJ has rightly held that petitioner has not placed on record any cogent reason to travel abroad and that there is no permanent address of the petitioner in Dubai. Even before this Court, the petitioner has not been able to provide any cogent reason to travel abroad. Even if the petitioner has a business in Dubai, in this era of modern technology, he can operate his business from India and can also depute a person of his choice to look after his business, more so since his own major son is also looking after his business in Dubai.

12. Considering the aforesaid facts and circumstances of the case and in view of reasons stated in preceding paragraphs, this Court



finds no reason to interfere with the impugned order dated 08.07.2023 passed by learned Additional Sessions Judge-03, New Delhi District, Patiala House Courts, New Delhi.

13. Accordingly, the present petitions are dismissed. Pending applications, if any, are also dismissed.

14. Nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 31, 2023/zp