D/L. 3.
March 12, 2024.
MNS.

WPA No. 26014 of 2023

Bijay Kumar Garodia
Vs.
Union of India and others

Mr. Arik Banerjee,
Mrs. Uma Bagree

… for the petitioner.

Mr. Manas Dasgupta

…for the respondent no. 3.

Ms. A. Rao,
Mr. S. Roy
…for the respondent no. 4.

1. Learned counsel for the Bank of Baroda, which is the respondent no. 3, hands over in a sealed cover the request for issuance of Look Out Circular (LOC).
2. The cover is opened in Court and on a perusal of the request, it transpires that the only ground on which the opening of the LOC was sought was that the Borrower-Company, of which the petitioner is a director, had defaulted in repayment of its dues and the account had slipped into NPA on a particular date. Further, it has been mentioned by way of reason that the unit of the Company is closed and the Company has been declared as Willful Defaulter and it is apprehended that

the directors/guarantors are likely to escape from India.

3. However, the mere fact that the account of the borrower-Company has been classified as NPA (Non Performing Asset) does not justify the high ground of issuance of LOC.
4. The declaration of the company as a Willful Defaulter is on an entirely different premise, which is to alert other operators in the commercial field of the defaults committed by the borrower and/or its directors.
5. However, the remedy of the bank lies in instituting a recovery proceeding. It has been repeatedly held by this Court and other High Courts that the issuance of LOC cannot be abused as an alternative for recovery proceedings. In fact, even if a recovery proceeding was initiated by the bank, the same could at best culminate in an award, which could be implementation by other modes and not by means of restraining the petitioner from leaving the country.
6. Hence, I do not find any ground disclosed in the reasons for the request of the bank to justify the assumption that if the petitioner is permitted to leave India, the larger economic interest of the country would be affected or the

public interest would be, in any manner, adversely effected.

7. Thus, the grounds required to be satisfied for issuance of LOC under the concerned Circulars of the Central Government having not been satisfied, the request and the consequential issuance of LOC are vitiated.
8. Accordingly, WPA 26014 of 2023 is allowed, thereby setting aside the request of the respondent no. 3-bank for issuance of LOC against the petitioner as well as quashing the said LOC, which has been issued against the petitioner.
9. The respondents are directed to reverse any action which might have been taken as a consequence of the issuance of such LOC at the earliest.
10. A copy of the request handed over in Court by the bank be kept on record.
11. There will be no order as to costs.
12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)