

OD 4

WPO/421/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SANJAY KUMAR SUREKA
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 16th May, 2024.

Appearance:
Ms. Noelle Banerjee, Adv.
Mr. Dipak Dey, Adv.
Ms. Sucheta Mitra, Adv.
...for the petitioner

Mr. Atarup Banerjee, Adv.
Mrs. R. Bhattacharyya, Adv.
...for the UOI

Mr. Soumya Roy, Adv.
Ms. Benazir Kazi, Adv.
...for the respondent nos.5 & 6/State Bank of India

The Court: Affidavit of service filed today be kept on record.

Learned counsel for the petitioner contends that a Look Out Circular has been issued against the petitioner by the Immigration Authorities at the request of the respondent bank. It is submitted that the said request does not fall within the four corners of the Government Circulars which stipulate the grounds on which such request can be made.

It is further pointed out that a common request was made for the petitioner and the twelve others by the bank, which was set aside by this Court in a previous order dated March 14, 2024 passed in WPA No.2002 of 2024. Although consequentially, a Look Out Circular issued against the petitioner therein was also set aside, since the present writ petitioner was not a party therein, the Look Out Circular issued on the basis of the self-same request of the bank against the present petitioner still remains. Challenging the same, the present writ petition has been preferred.

Learned counsel for the bank hands up a copy of an order dated May 3, 2024 passed in WPO No.359 of 2024 where in a similar case, it was recorded that the accused person therein was named in an FIR registered by the Central Bureau of Investigation on the complaint lodged by the bank. It is submitted that as opposed to the petitioner in WPA No.2002 of 2024, the petitioner in the present case finds his name in an FIR registered by the CBI at the behest of the bank's complaint.

However, it is seen even from the order dated May 3, 2024 which is relied on by the bank that in spite of the name of the writ petitioner therein finding place in an FIR registered by the CBI, this Court proceeded on the premise that in Indian Criminal Jurisprudence a person is presumed innocent unless found guilty by a competent Court of law and as such, mere naming of a person in an FIR does not automatically indict the said person or make him an offender. Moreover, lodgment or registration of an FIR cannot come within the purview of 'pendency of a criminal proceeding' before a competent Criminal Court, which is one of the grounds for issuance of Look Out Circulars.

In such view of the matter, there is nothing on record to show that the circumstances for the present writ petitioner differ from those of the writ petitioner in WPA No.2002 of 2024 on any germane issue. Accordingly, since the common request issued by the bank has already been set aside previously, the LOC issued against the present writ petitioner on the premise of the self-same request cannot be sustained.

Hence, WPO/421/2024 is allowed on contest, thereby setting aside the Look Out Circular (LOC) issued by the Immigration Authorities against the petitioner. The respondents shall take immediate steps for reversing any action which might have been taken against the petitioner pursuant to such issuance of LOC against the petitioner.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)