

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 142 OF 2024

Shruti Rajesh Modi Petitioner

Versus

1. Union Of India
2. Central Bureau of Investigation Respondents

Mr. Niranjana Mundargi a/w Mr. Chandansingh Shekhawat, Ms. Samruddhi Bendbhar, Ms. Keral Mehta, for the Petitioner.

Mr. Shahajirao Shinde, for the Respondent No.1.

Mr. Shreeram Shirsat, Spl. P.P. a/w Ms. Tanvi Mate, Ms. Karishma Rajesh, Mr. Shekhar Mane, Ms. A. S. Gotad, A.P.P, for the Respondent No.2 – CBI.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 7th MARCH 2024

ORAL JUDGMENT (Per Revati Mohite Dere, J) :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.

3. By this petition, the petitioner seeks quashing and setting aside of the Look Out Circular (“LOC”), issued as against her, at the behest of the respondent No.2 – CBI.

4. On 14th June, 2020, Sushant Singh Rajput committed suicide at his residence at Bandra. Pursuant thereto, the Mumbai Police registered an Accidental Death Report (ADR) and commenced inquiry under Sections 174 of the Code of Criminal Procedure (‘Cr.P.C’), to ascertain the cause of death.

5. It appears that during the course of inquiry, the Mumbai Police recorded the statements of several persons. It appears that during the pendency of the said inquiry, conducted by the Mumbai Police, Sushant Singh Rajput’s father-Krishna Kishore Singh lodged an FIR with the Rajeev Nagar Police Station, Patna, which was registered vide C.R. No. 241/2020 as against the aforesaid petitioner and others under Sections 341, 342, 380, 406, 420, 306, 506 and 122 of the Indian Penal Code (‘IPC’). Considering that event the Mumbai Police

were conducting an inquiry and since an FIR was registered in Patna, though the cause of action had arisen in Mumbai, one co-accused Rhea Chakraborty filed a transfer petition being Transfer Petition (Cri.) No. 225/2020 in the Supreme Court. In the interregnum, pending the Transfer Petition before the Supreme Court, the State of Bihar handed over the investigation of C.R. No. 241/2020 to the Central Bureau of Investigation ('CBI'), to investigate the death of Sushant Singh Rajput. The Transfer Petition (Cri.) No. 225/2020 preferred by Rhea Chakraborty before the Supreme Court was decided on 19th August 2020. The Apex Court directed the CBI to investigate the case i.e. into the death of Sushant Singh Rajput. During the course of investigation, the CBI summoned several persons including the petitioners, against whom an FIR was registered and recorded their statements during the course of investigation.

6. The petitioner was working as a manager with Sushant Singh Rajput i.e. six months prior to the unfortunate demise of Sushant Singh Rajput. Admittedly, the petitioner is not an accused in

the NDPS Case.

7. Learned Counsel for the petitioner submitted that the LOC opened was issued as against the petitioner in the year 2020 and that till today, the police have not filed any report. It is submitted that the LOC can not be issued indefinitely, more particularly when the petitioner had co-operated with the investigation and has attended the office of the CBI as and when called. It is submitted that keeping the LOC pending for more than 3½ years, has infringed the petitioner's right to travel abroad, and as such amounts to violation of her fundamental right under Article 21 of the Constitution India to travel freely.

8. Learned Counsel for the petitioner further submitted that the petitioner has roots in the society and as such, the question of the petitioner absconding or evading arrest, also does not arise.

9. Learned Counsel for the petitioner relied on the Judgment

of this Court dated 22nd February, 2024, passed in in Criminal Writ Petition No. 3135 of 2023 and other connected Writ Petitions.

10. Mr. Shirsat, learned Spl. P.P. appearing for the respondent No.2 – CBI, opposed the petition. He also questioned the maintainability of the petition before this Court.

11. Perused the papers as well as the LOC tendered by Mr. Shirsat, learned Spl. P.P. appearing for the respondent No.2 – CBI. The petitioner is one of the accused, against whom the FIR has been registered by the respondent No.2 – CBI i.e. C.R. No. 241 of 2020, registered initially with Rajeev Nagar Police Station, Patna, and subsequently transferred to CBI and re-numbered as RC2242020S0001 on 6th August 2020 at AC-VI Police Station, Delhi.

12. The said FIR has been registered as against the petitioner alongwith other co-accused i.e. Showik Indrajit Chakraborty, Lt. Colonel Indrajit Chakraborty, Sandhya Indrajit Chakraborty and Rhea Chakraborty. By Judgment and Order dated 22nd February, 2024,

passed in Criminal Writ Petition No. 3135 of 2023 and other connected writ petitions, we have already observed that this Court has jurisdiction to entertain the aforesaid petition, seeking quashing of the LOC and as such, it is not necessary to again go into the said objection raised by the learned Spl. P.P. appearing for Respondent No.2 – CBI. Para No.14 of the said Judgment reads thus :

*“14. Even today, learned Spl. P.Ps raised the question of jurisdiction. It is pertinent to note, that in the FIR registered by the respondent-CBI, in the Column ‘Place of Occurrence’, the places mentioned are ‘Mumbai, Patna and other places’ . It is not in dispute that the alleged offence which is being investigated by CBI has taken place in Mumbai and definitely a great part of the cause of action has arisen in Mumbai. We, having considered the judgment of the Apex Court rendered in the case of **Navinchandra Majithia (Supra)**, in particular paras 22, 27, 37 and 38 and **Kusum Ingots & Alloys Ltd. (Supra)**, in particular paras 10 and 11, do not find any merit in the*

objection raised by the learned Spl. PPs, that the aforesaid petitions should be dismissed for want of jurisdiction. We hold that the petitions are maintainable before us, in Mumbai.”

13. We have perused the LOC, issued as against the petitioner on 7th August, 2020. It appears that the said LOC is issued only on the basis of the registration of an FIR. No apprehension that the petitioner will evade arrest or will not be available for trial, or is likely to abscond, or any other bonafide reason been spelt out, in the said LOC. Infact, if Clause (IV-d.) is seen, the said LOC was issued for a period of 12 months in terms of the MHA Order dated No.25016/31/2010 dated 27/10/2010. It is clearly stated that the retention of LOC cannot exceed 12 months/one year and that requests for renewals are to be made by the competent authority from time to time on yearly basis.

14. Nothing was brought to our notice in the LOC, reflecting the ‘reason’ for issuing of LOC, except registration of an FIR and

setting out the gist of the FIR, or for the continuance of the LOC. Neither has the respondent No.2 – CBI placed before us any subsequent request made by the CBI for continuation/renewal of the LOC, after the expiry of one year. Admittedly, till date no report has been filed by the CBI i.e. either a charge-sheet or a closure report. It is not in dispute that the petitioner has joined the investigation and has co-operated with the same. We have already allowed the Petition of the co-accused in the same case, and have quashed the LOC issued as against them.

15. We have already noted in para No.23 of our Judgment dated 22nd February, 2024, as under :

“23. LOCs cannot be issued as a matter of course, but only when there is/are reason/(s) to issue the same i.e. when a person deliberately evades arrest or does not appear in the trial Court or for any other reason. An LOC is a coercive measure to make the person surrender and as such interferes with the person’s right of personal liberty

and free movement and curtails the fundamental right of an individual to travel, guaranteed under Article 21 of the Constitution.”

16. It is not in dispute that the petitioner has roots in the society. The right to travel is a fundamental right and cannot be curtailed except according to due procedure established by law. Under the Format for issuance of LOC itself, ‘reasons’ must be given, in respect to the apprehension of a person evading arrest or otherwise. Although there are Consolidated Guidelines for issuing of LOC, even under the said Consolidated Guidelines, the LOC is expected to be periodically reviewed, as to whether grounds exists to continue the same.

17. Considering the aforesaid, the petition is allowed and as such, the LOC issued as against the petitioner, is quashed and set-aside.

18. Needless to state that it is always open for the authorities

to issue LOC against the petitioner, if the occasion so arises in future.

19. Rule is made absolute in the aforesaid terms and the petition stands disposed of accordingly.

20. All concerned to act on the authenticated copy of this order.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.

Digitally
signed by
CHAITANYA
ASHOK
JADHAV
Date:
2024.03.16
16:37:36
+0530