

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1629 OF 2024

Dinesh Agarwal ...Petitioner

Versus

Bureau of Immigration Ministry of Home Affairs ...Respondent

Mr. Devashish Godbole, a/w Prasad Nagargoje, Advocates for the
Petitioner.

Mr. D.A. Dube, a/w Sachidanand Singh, Advocates for
Respondent No.1.

Mr. A.R. Bamne, i/b A.R. Bamne & Co., Advocates for
Respondent No.2.

Ms. Leena Patil, Advocate for Respondent No.3-UoI.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : APRIL 15, 2024

PC :

1. The above Writ Petition is filed *inter alia* challenging the Look Out Circular issued at the instance of Bank of Baroda alongwith the Office Memorandum issued by the Government of India from time to time. By way of interim relief, the Petitioner seeks permission to travel to Canada and U.S.A. from 23rd May, 2024 to 20th June, 2024 as per the itinerary provided at Exhibit 'K' to the Petition.

2. Mr. Godbole, the learned counsel appearing on behalf of the Petitioner, submitted that the issues raised in the present Petition form the subject matter of a bunch of other Writ Petitions which have been heard by another Bench of this Court and the judgment is reserved. He submitted that in the interregnum, parties like the Petitioner have been permitted to travel abroad for business as well as personal reasons. The learned Counsel submitted that he is undertaking the aforesaid travel to attend the convocation of his daughter from the university of Toronto and thereafter for a family holiday in Canada as well as in the U.S.A.. It is for this reason that he seeks permission to travel. He submitted that it is now well settled that the right to travel abroad is recognized as a fundamental right under Article 21 of the Constitution of India and, therefore, he be permitted to travel especially considering that he is not at any flight risk. He submitted that this is also borne out from the fact that though certain criminal proceedings have been initiated against the Petitioner (in an unrelated matter), the concerned Criminal Court has in fact granted him permission to travel abroad vide its order dated 4th August, 2023 [when he was permitted to travel upto 11th September, 2023]. He submitted that if this Court is inclined to grant him permission to travel, he would thereafter seek

fresh permission from the Criminal Court to travel on the dates mentioned above, if required.

3. On the other hand, Mr. Bamne, the learned Counsel appearing on behalf of the Bank of Baroda submitted that approximately Rs.63 Crores [as on April 2017] is due and payable by the Petitioner in his capacity as a guarantor. He submitted that until these dues are paid or adequately secured, no permission to travel ought to be granted.

4. We have heard the learned Counsel for the parties. We have also perused the papers and proceedings in the above Writ Petition. It is not in dispute that the issues raised in the above Writ Petition have already been heard by another Division Bench of this Court (in a bunch of other Writ Petitions) and the Judgment is reserved. It is also not in dispute that in the interregnum, parties like the Petitioner have been permitted to travel abroad subject to certain terms and conditions being imposed upon them. Considering that the right to travel abroad is recognized as a fundamental right under Article 21 of the Constitution of India, we permit the Petitioner to travel to Canada and U.S.A. from 23rd

May, 2024 to 20th June, 2024 subject to the following terms and conditions:-

(a) The Petitioner shall file an undertaking in this Court that he shall strictly adhere to the itinerary more particularly set out at Exhibit 'K' to the Petition. In addition, he shall also set out in the undertaking the addresses where he would be staying alongwith all other contact details. This undertaking shall also state that the Petitioner shall return back to India on or before 21st June, 2024.

(b) The Petitioner shall also file an undertaking stating that he will not apply for renewal, modification or extension of this order until he returns back to India.

(c) Both the aforesaid undertakings shall be served on the Advocates for Bank of Baroda before the date of departure.

(d) Within 1 week of returning to India, namely, within 1 week from 21st June, 2024, the Petitioner shall file an affidavit setting out the expenses incurred by him during the above travel and the source/s of income used for funding the said expenses. This affidavit shall also be served on the Advocates for Bank of Baroda before the date of departure.

5. Subject to above conditions, the Look Out Circular issued at the instance of Bank of Baroda against the Petitioner is suspended upto

21st June, 2024. It is clarified that this order does not apply to any other Look Out Circular and/or restraint order, if any, issued by any other Authority/Agency/Court/Bank.

6. It is clarified that this permission is granted subject to obtaining any permission in Criminal Case No.868/PW/2022 filed against the Petitioner, if required.

7. The immigration authorities at all ports of departure, including all airports, will permit the Petitioner passage and permit the Petitioner to take his flights out of the country irrespective of whether Bank of Baroda have notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or otherwise.

8. The immigration authorities will not insist upon a certified copy of this order but will act on presentation of an authenticated or digitally signed copy of this order.

9. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]