



2024:DHC:6842



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 3th September, 2024
Pronounced on: 6th September, 2024*

W.P.(CRL) 1184/2023

JAGADISH NANGINENI

S/o Sh. N.S.K. Prasad,

R/o #1, Sobha Lotus, Ryan School Road,

Kundalahalli, Bangalor North, Bangalore-560037

Jagadish.nangineni@sobha.com

.....Petitioner

Through: Mr. Sidharth Aggarwal, Sr. Advocate with
Mr. Gyanendra Kumar, Ms. Shreya Som,
Mr. Dwijesh Kapila, Mr. Mukesh Seju, Mr.
Abhinav Chahar & Mr. Vishwajeet Singh,
Advocates.

versus

1. DIRECTORATE OF ENFORCEMENT

Represented through its Deputy Director

3rd Floor, B-Block,

Parvartan Bhawan,

Dr APJ Abdul Kalam Road,

New Delhi-110011

dl.hc-ed@gov.in; hossainzoheb@gmail.com

.....Respondent No.1

2. UNION OF INDIA

Through the Home Secretary,

Ministry of Home Affairs,

Government of India,

North Block, New Delhi-110001

hshso@nic.in; uoidhc@gmail.com;

mohammedmuqem@gmail.com

....Respondent No. 2

3. BUREAU OF IMMIGRATION



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Through the Commissioner (Immigration),
Ministry of Home Affairs,
Government of India,
East Block-VIII, Level-V, Sector-1,
R.K. Puram, New Delhi-110066
Support-boi@mha.gov.in; uoidhc@gmail.com;
mohammedmuqeem@gmail.comRespondent No. 3

Through: Mr. Zoheb Hossain, Special Counsel, Mr.
Vivek Gurnani, Panel Counsel & Mr. Kartik
Sabharwal, Advocate for ED.
Mr. Anurag Ahluwalia, CGSC, Mr. Kaushal
Jeet Kait, G.P. & Ms. Hridyanshi Sharma,
Advocate for R-2 & 3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The present *Petition* under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, ("*Cr.P.C. 1973*") has been filed seeking to withdraw/recall of Look-Out-Circular ("*LOC*") if any issued by the respondents pursuant to ECIR dated 25.01.2019 bearing *ECIR/91/HIU/2019*, u/s 3 and 4 of the Prevention of Money Laundering Act, 2002 ("*PMLA*") and to allow the Petitioner/Mr. Jagadish Nangineni to travel abroad.
2. Petitioner/ Sh. Jagadish Nangineni, a Civil Engineer by profession, has done his B.Tech from IIT Mumbai and holds a degree of MBA from IIM, Kolkata.
3. In November 2009, the Petitioner joined Sobha Limited ("*Sobha*"), as the General Manager, Business Development, purely in a professional capacity with no prior financial or other interest, and worked in the



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registered Office of the Company at Bangalore. In 2010, he shifted to the Sobha's NCR office at Gurugram and continued as Deputy Managing Director & Regional Head until March 2022. Thereafter, the Petitioner was promoted and designated as the Managing Director of *Sobha* on April 1, 2022 and is currently fulfilling his official duties while residing at Bangaluru.

4. The initial *F.I.R No. 291/2018* dated 13.12.2018 was registered by Bajghera Police Station, Gurugram District, Haryana against Sobha and others, for the alleged offences punishable under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 ("*HDRUAA*") and Section 420 of the Indian Penal Code, 1860 ("*IPC*"). On the basis of the scheduled offences in the above F.I.R., the Respondent No. 1/Directorate of Enforcement ("*ED*"), has recorded the ECIR dated 25.01.2019 bearing *ECIR/91/HIU/2019* u/s 3 and 4 of PMLA 2002, against the Petitioner for the offence of Money Laundering.

5. The Enforcement Directorate (ED) has claimed that Sobha is allegedly involved in violation of the provisions of the Bilateral Agreement executed between the Director, Town and Country Planning, Haryana ("*DTCP*"). However, it is asserted by the petitioner that there is no violation of any law committed by the Petitioner or Sobha and even if there is any violation, the same constitutes only a civil wrong/contractual dispute.

6. Pursuant to recording the ECIR (based on the FIR), in 2019, the Respondent No. 1/ED had initiated its investigation and interrogation in which the Petitioner has duly cooperated with the Respondent No. 1 and has furnished all requisite details/ information/ papers and documents sought.



7. On 20.08.2019, even before the Charge Sheet was filed by the Police, the Respondent No. 1/ED raided the Petitioner's residence on 20.08.2019 and office on 20.08.2019 to 21.08.2019, and seized various documents and devices, which still remain in the custody of the Respondent No. 1/ED.
8. Subsequently, after conducting detailed investigation in the FIR, a Final Report/ *Initial Charge Sheet dated 30.10.2019 bearing CHA-5297/2019* was filed against the Petitioner and others for alleged offence punishable only under Section 10 of the HDRUAA, before the Ld. jurisdictional Judicial Magistrate First Class, Gurugram.
9. Pertinently, the *Scheduled Offence of Section 420 IPC* was omitted/dropped by the Police having been fully satisfied that no such offence is committed by the Petitioner/Sobha and others, in relation to the allotment of plots, as alleged in the FIR.
10. Subsequently, from 01.11.2019 onwards, the Petitioner herein appeared before the Jurisdictional Magistrate, Gurugram, without fail and has been willing and cooperating with the courts and the investigative agencies.
11. The Ld. Magistrate has taken cognizance of the Initial Charge Sheet and the Petitioner was also released on bail *vide* Order dated 01.11.2019 without any travel restrictions or conditions, and the case is pending trial.
12. On 27.06.2020, the other accused, Chintels Group, had filed a Writ Petition bearing no. *W.P. (Crl). 979/2020* before this Court challenging the registration of the ECIR and seeking quashing of the same, on the premise that the Charges u/s. 420 I.P.C. have been dropped and thus, the jurisdiction of ED to continue with the ECIR has lapsed. This Court, *vide* Order dated 07.08.2020, has directed that the subject ECIR be closed with liberty to the



Respondent No. 1 to revive the same, if a supplementary charge sheet is filed and/ or a Charge is framed concerning the Scheduled Offence.

13. However, in the interim, the Respondent No. 1, the Haryana Police on 01.08.2020, filed an Application before the Ld. Magistrate seeking permission to further investigate and file a supplementary Charge Sheet on the ground that "*new facts and witnesses have come into notice*" which was allowed *vide* Order dated 04.08.2020. Pertinently, this factum of filing of Application was never disclosed to this Court in the aforesaid Writ Petition was pending consideration.

14. Pursuant thereto, the Police filed a *Supplementary Charge Sheet-1* on 20.08.2020, against the Petitioner and others, and added Section 420 IPC. A bare perusal of the Supplementary Charge Sheet-1, reveals that the incorporation of Section 420 IPC is completely unrelated to the FIR or the initial Charge Sheet. Additionally, the jurisdictional Magistrate has not yet taken cognizance of the offence under Section 420 of the IPC.

15. Thus, by creating a backdoor entry, the respondent no. 1/ED has revived the ECIR and has continued with the investigations and for the past 4 years, the Petitioner along with other representatives of *Sobha* have been duly cooperating with the Respondent No. 1/ED and have been furnishing information as and when needed/called for.

16. Notably, the Petitioner has appeared in person before the Respondent No. 1/ED about 13 times and has duly responded to all queries via email or through counsels. Even the then Vice Chairman and Managing Director of Sobha, Mr. Jagdish Chandra Sharma, the then Chief Financial Officer of Sobha, Mr. Subhash M Bhat and other personnel of Sobha, including the IT Personnel, have appeared before the Respondent No. 1/ED on multiple



occasions and provided access to all relevant documents, statements, digital database, etc.

17. Since the Supplementary Charge Sheet-1 has sought to reintroduce Section 420 IPC and has been filed in the absence of any new material or evidence, the Petitioner herein filed the Quashing Petition bearing *CRM-M 22817 of 2021* before the High Court of Punjab and Haryana,.

18. Thereafter, the Police filed a *Supplementary Charge-Sheet-2* on 04.01.2022, invoking Section 420 read with Section 34 of IPC and added *Sobha* and certain other parties, as accused. However, the Jurisdictional Magistrate has yet not taken cognizance of the same.

19. Thus, the Petitioner filed an Application dated 06.04.2022 in the quashing Petition to include challenge and quashing of the Supplementary Charge Sheet.

20. After considering the pleadings and appreciating the facts as well as material placed on record, the Court of Punjab and Haryana passed the Interim Order dated 16.05.2022, whereby it was directed that the trial related to the scheduled offence (*Section 420 of the IPC*) be adjourned till the next date of hearing of the Quashing Petition. This Order was extended on multiple occasions till 16.05.2023.

21. During the pendency of the Quashing Petition, the Respondent No.1/ED issued the provisional Attachment Order no. 32/2022 on 05.12.2022 against *Sobha* and provisionally attached the properties worth INR 201.60 Crores, as the proceeds of crime. The Respondent No. 1/ED has filed *Original Complaint No. 1871/2023* before the Ld. Adjudicating Authority and the same is pending for disposal.



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22. The Petitioner had filed a *Special Leave Petition* bearing *SLP (Crl.) 4153/2021* before the Supreme Court of India against the Respondent No. 1 herein, seeking Anticipatory Bail in the ECIR. *Vide* Order dated 29.06.2021 interim protection was granted to the Petitioner which was made absolute on 15.02.2022. Thereafter, on 05.09.2022, leave was granted and the SLP was disposed in favour of the Petitioner.

23. It is thus, submitted that the Petitioner, being a Managing Director of a reputed listed Company, he is required to frequently travel abroad to fulfil his professional commitments. Further, it is apposite to note that while allowing the Anticipatory Bail SLP, no restrictions or conditions were imposed with respect to the travel of Petitioner.

24. However, it is apprehended that the Respondent No. 2/the Respondent No.3 has issued a LOC against the Petitioner at the instance of the Respondent No. 1/ED, restricting the Petitioner's travel abroad. Though the Petitioner had sent a letter dated 09.02.2023 to the Respondent No. 1, seeking clarification if any LOC has been issued against the Petitioner restricting the Petitioner's overseas travel. However, the Respondent No. 1/ED neither responded to the Petitioner's letter and/nor provided any clarification on restriction on the Petitioner's travel.

25. It is submitted that in absence of a response from the Respondent No. 1, if the Petitioner were to proceed with the assumption that there is no LOC and undertake business or other travel abroad, he risks the embarrassment of being publicly humiliated by being deboarded from the aircraft or being refused exit by the Immigration department at the airport, in addition to the financial loss for the travel arrangements.



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26. Additionally, pendency of any LOC against the Petitioner will also be in violation of the Orders of the Hon'ble Supreme Court of India which has granted protection to the Petitioner in connection with the ECIR, without any travel restrictions.

27. Thus, the Present Writ Petition has been preferred by the petitioner to assail the LOC if any, has been opened against him.

28. The Petitioner has asserted that he is not a flight risk and cannot be deemed to in any manner, evading the process of law. The Petitioner has deep roots in India including his family, property, employment, and residence. The Petitioner is a regular taxpayer in India and has filed his Income Tax Return up to Assessment Year 2022-23.

29. The Petitioner has duly cooperated with the investigation conducted by the Respondent No. 1 till date and there is nothing to show that any such apprehension of the Petitioner not surrendering to the investigating agency is no longer tenable.

30. The Apex Court has already granted the Anticipatory Bail to the Petitioner *vide* Order dated 05.09.2022 and has granted him protection from arrest in relation to the ECIR, and has not imposed any conditions /restrictions on travel abroad. Even otherwise the continuation of any LOC will be in the teeth of this Order.

31. The LOCs as per the Office Memorandum of 2010 and its subsequent Amendments issued by the Ministry of Home Affairs, a LOC can be issued only after certain prescribed guidelines are followed, while in the present case, directions have been passed in a mechanical manner.

32. Moreover, investigation would not be prejudiced in any manner if the petitioner is permitted to travel abroad temporarily, to attend it's office



duties and personal obligations. Also, since the Petitioner and his family are holding Indian Passport, he shall return back to the country.

33. Lastly, the very issuance of the LOC against the Petitioner is illegal, unlawful, unjust, and amounts to an act of unreasonable curtailment of the personal liberty of the Petitioner. It is submitted that such an action vitiates the constitutional rights of the Petitioner enshrined under Article(s) 14, 19 and 21 of the Constitution of India. The LOC if any, is thus liable to be quashed.

34. **Respondent No. 1/ED** in its **Reply** has essentially contented that the Look-Out Circular had been issued on 15.02.2021 as departure of the Petitioner from India, is detrimental economic interest of India and ought not to be permitted in the larger public interest. The LOC is in accordance with the OM No. 25016/31/2010-Imm. dated 27.10.2010 issued by the Ministry of Home Affairs which was amended *vide* OM No. 25016/10/2017-Imm (Pt.) dated 05.12.2017.

35. It is further submitted that issuance of LOC is in nature of an administrative action and can be issued by an Investigating Agency in cognizable offences where the accused is deliberately evading arrest or failing to appear before the Trial Court, or where there is a likelihood of the accused leaving the Country to evade trial/arrest. The LOC was issued in the present case, was only to secure the presence of the Petitioner as at that time his presence was very crucial to the investigation of the case and the petitioner had failed to present himself despite the summons issued to him at that time. He avoided to appear on the ground that he had to take care of his ailing father, however no document was provided to support this claim. His phone also remained switched off, raising reasonable suspicion of him being



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underground. His non-cooperation was evident as he did not appear on 11.02.2021, 16.02.2021, 25.02.2021, 10.03.2021, 25.03.2021, 02.06.2021 and 10.06.2021. Some summons were received by his father and his wife, who stated that they were not aware about his whereabouts.

36. It is further contended that the reliance of the petitioner on the Orders of the Apex Court is misplaced which merely allowed his SLP for Anticipatory bail and the matter to travel to foreign was not even discussed during the course of hearing.

37. Further, the Petitioner is one of the potential accused being the Regional Director of *Sobha* and was the main person who is aware of all the affairs of Sobha Limited. He has also played an important role in setting up the 59 LLPs to override the provisions of the Agreements entered into by the Colonizer at the time of grant of License, by selling of *No Profit No Loss Plots* in violation of Agreement between Director, Town Country Planning and Developers.

38. Pertinently, the Petitioner is a flight risk since the Chairman of Sobha Limited is based in Dubai and Sobha Limited has many Projects based in Dubai and other countries.

39. Since public confidence in the criminal justice system gets eroded when persons accused of economic offence due to their influence and economic power, are able to flee from justice and evade the process of law. The Hon'ble Supreme Court repeatedly that economic offences are a class apart and affect the entire fabric of society. Thus, issuance of an LOC is one the least intrusive measure and is a reasonable restriction on the right to travel abroad of a person involved in serious economic offences.



40. To buttress the arguments advanced, the Ld. Counsel for Respondent No. 1/ED relied upon Judgement dated 24.11.2022 in Atul Punj vs IDBI Bank & Ors in W.P. (Crl) 2332/2022, Judgement dated 24.05.2022 in Directorate of Enforcement vs Kanwar Deep Singh in CRL. M.C. 1748/2022, Judgement o dated 24.05.2023 in Kanwar Deep Singh vs Directorate of Enforcement in CRL.M.C. 6638/2022, Order dated 18.08.2023 in Kanwar Deep Singh vs Directorate of Enforcement in SLP (Crl) Diary No 24253/2023, Judgement dated 21.09.2023 in Mandhir Singh Todd vs Directorate of Enforcement in CRL.M.C. 289/2023, Judgement dated 31.10.2023 in Jai Prakash Singhal v.Directorate of Enforcement in CRL. M.C.5012/2023, Judgement dated 29.08.2017 in Nitin Sandesara v. Directorate of Enforcement in W.P.(C) 7559/2017.

41. In **Rejoinder**, the Petitioner has essentially reiterated the stand taken in the Petition and has also submitted that the Petitioner had to travel to Dubai for professional reasons. He had preferred *C.M. No.16690/2023* before this Court seeking permission for travel, which was allowed *vide* Order dated 30.06.2023 granting permission to the Petitioner to travel to Dubai from 03.07.2023 to 07.07.2023.

42. It is also argued that the LOCs would be valid only for a period of 1 year from the date of issuance and thus, the present LOC dated 15.02.2021 lapsed on 14.02.2022. Thereafter, it was renewed for another period of one year from 15.02.2022 to 14.02.2023. However, the Petitioner was not even summoned once during that period. Respondent No. 1 renewed the LOC for the third time in a mechanical manner, arbitrarily and without any application of mind and the same amounts to unreasonable restriction.



43. To support the arguments advanced, the Id. Counsel for the **Petitioner** has placed reliance upon Sumer Singh Salkan v. Asstt. Director & Ors. W.P.(Crl) No. 1315/2008, Priya Parameswaran Pillai v. Union of India & Ors. W.P.(C) No. 774/2015, Kamalesh Sailesh Chandra Chakrabarty v. Union of India & Anr. W.P.(C) No. 4740/2018, Brij Bhushan Kathura v. Union of India & Ors., W.P.(C). No. 3374/2021, Deept Sarup Aggarwal v. Union of India & Anr., W.P.(C). No. 5382/2020, Noor Paul v. Union of India & Ors., CWP No. 5492/2022, Bank of India v. Noor Paul & Ors., SLP (C) No. 7733/2022, Vikas Chauhdary v Union of India & Ors., W.P.(C). No. 5374/2021, Dhruv Tiwari v. Directorate of Enforcement, 2022 SCC Online Del 1983, Rana Ayyub v Union of India and Another , 2022 SCC OnLine Del 961, Shri Sathish Babu Sana v. Central Bureau of Investigation, W.P.(C). No.249/2019, Ratul Puri v. Union of India & Ors., W.P.(C). No. 5873/2022, Order dated 14.12.2022 and Order dated 20.04.2022, Sandeep Singh Deswal v. State (Govt. of NCT of Delhi), W.P.(C). No.275/2023 and Raghav Bahl v. Enforcement Directorate Ministry of Finance, W.P.(C). No.2392/2021.

44. Further, it is contended that Lookout circular cannot be issued when the accused has been granted Bail. Reliance has been placed on E.V. Perumal Samy Reddy & Ors. V State & Ors., 2014(1) MLJ(Crl) 125, M. Thaigarajan v. The Passport Issuing Authority, Regional Passport Office, Madurai & Others, 2017 SCC Online Mad 21856, Mohammed Osman Khazi v. State of Telangana, W.P. No. 7341/2019 (Telangana High Court), Navinchandra Gangadhar Hegde v. State of Maharashtra, 2017 SCC Online Bom 8505, Syed Samsudeen v. The Chief Immigration Officer, Immigration Department & Ors., Manu/TN/3578/2021, Thatiseti Ramesh v. State of



Telangana, W.P. No. 5024/2021(Telangana High Court) and Roshini Kapoor v. Union of India & Others, W.P.(Crl) No. 1098/2022(Bombay High Court).

45. **Submissions Heard and record as well as judgments, perused.**

46. The circumstances in which the Look Out Notice can be opened has been explained in the decision of this Court in Sumer Singh Salkan (Supra) decided on 11.08.2010. It was observed that "*Recourse to LOC can be taken by investigating agency in cognizable offences under IPC or other penal Laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest*".

47. In the present case, none of the circumstances are made out. Though it has been insisted that the LOC was issued to secure presence of the Petitioner and that he is at flight risk and would evade trial, however, it is evident that the Petitioner has been duly cooperating with the Investigating Agency by furnishing the requisite documents and by responding to queries raised by the Respondent No. 1/ED. It is also recorded in Order dated 05.09.2022 passed by the Apex Court that he has appeared more than 14 times before the ED.

48. Further, the Petitioner has explained that his family, property, employment and residence is in India. However owing to professional commitments, he has to travel abroad and he had previously been permitted to travel to Dubai from 03.07.2023 to 07.07.2023 *vide* Order dated 30.06.2023. According to the Petitioner, the same was duly intimated Respondent No. 1/ED *vide* emails dated 02.07.2023, 03.07.2023, and 06.07.2023.



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49. Notably, the Apex Court has already granted Anticipatory Bail to the petitioner *vide* Order dated 05.09.2022, with the directions that no coercive action, including arrest, shall be taken against the petitioner. The Anticipatory Bail order also obliges the petitioner to join the investigation as and when called upon by the investigating agency.

50. Given these facts, that petitioner has joined investigations, is not evading the process of law and there is no likelihood of the petitioner leaving the country to evade trial; none of the grounds for continuing the LOC continue to exist. The Lookout Circular (LOC) issued against the Petitioner is hereby quashed.

51. **The petitioner shall keep the Trial Court informed about his place of residence and his updated contact details. In the event of travelling abroad, he may inform the concerned Trial Court by way of an Application with his itinerary annexed and details of the intended placed of residence in abroad.**

52. The writ petition is allowed, in the aforesaid terms. Pending application(s), if any, stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 06, 2024