$~41

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ LPA 289/2024 & CM APPL. 21273/2024

MANJRI CHOUDHARY ..... Appellant

Through: Mr. Arup Sinha, Ms. Arham Tanvir Mr. Sanket Vashishta, Mr. Dhairya BM Verenkar, Mr. Uday Arora and Mr. Akhil Kumar, Advocates

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with Mr. Tarveen Singh Nanda, GP for Respondent Nos. 1, 2 & 5
Mr. Arun Aggarwal, Advocate with Mr. Shivam Saini Mr Praful Rawat and Ms. Aditi Gupta, Advocates for R-4

% Date of Decision: 09th April, 2024.

HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPL. 21272/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 289/2024 & CM APPL. 21273/2024

1. The present appeal filed under Clause X of the Letters Patent of the

then High Court of Judicature at Lahore, which stands extended to the High Court of Delhi, impugns the interlocutory order dated 21st March, 2024 ('impugned order') passed by Ld. Single Judge in CM Appl. 17303/2024, filed in W.P.(C) 4258/2024 titled as '**Vijay Choudhary and Anr. Vs. Union of India and Ors.'** to the extent of furnishing a cash security or bank transfer of Rs. 10 Lakhs in favor of Respondent No. 4 and consequently, seeking a direction to suspend the Look Out Circular(s) ('LOCs') issued against the Appellant till 30th April 2024.

2. It is stated that M/s. Zoom Developers Pvt. Ltd. ('Company') availed loan from a consortium of 26 banks on 16th September, 2004. It is stated that loan of Rs. 30 Crores was given by the Respondent No. 4, i.e., Bank of Baroda. However, on 30th June, 2010, Company's loan account was classified as a non-performing asset (NPA) by Respondent No. 4, with an outstanding amount of Rs. 27.36 Crores. Subsequently, Respondent No. 4 Bank lodged a complaint against the Company and following that case bearing no. 11/E/2014/CBI/EOW/MUM dated 01st October, 2014 in CC No. 978/2015 ('criminal case') was registered and charge-sheet dated 22nd December, 2015 also stands filed in relation to the aforementioned case.

2.1 It is admitted that the Appellant stood as a personal guarantor for the aforesaid loan availed by the Company from Respondent No. 4 Bank.

2.2 It is stated that Mr. Vijay Madanlal Choudhary, the husband of the Appellant, who was the promoter and director in the Company as well as personal guarantor for the loan has been arrayed as an accused in the aforesaid criminal case.

2.3 It is stated, however, that Appellant was neither arrayed as an accused in the registered case nor was she arrayed in the charge-sheet dated 22nd

December, 2015 submitted before the learned ACMM Court. It is stated that, however, the Appellant has been arrayed as an accused in eight separate complaints filed by other banks[1].

2.4 It is stated that the Appellant along with her husband, Mr. Vijay Madanlal Choudhary filed the underlying W.P.(C) 4258/2024 for setting aside the Look Out Circular ('LOC'), which have been issued by Respondent Bank against them. It is stated that CM APPL. 17303/2024 has been filed seeking interim directions to Respondent Nos. 3 and 4 to suspend the LOCs from 1st April, 2024 to 30th April, 2024, to enable the Appellant to travel to United Arab Emirates to be with her daughter, Ms. Divya Choudhary, who is in the advanced stage of pregnancy.

2.5 By impugned order dated 21st March, 2024, the learned Single Judge, passed the impugned interlocutory order permitting the Appellant herein to travel to Dubai from 22nd March, 2024 to 28th April, 2024 to look after her daughter, Ms. Divya Choudhary, subject to conditions set out therein.

2.6 The Appellant herein is aggrieved by the condition, set out at serial no. 1 of paragraph 17 of the impugned order and therefore, has challenged the impugned order dated 21st March, 2023 to the extent of furnishing a cash security or bank transfer of Rs. 10 Lakhs in favour of Respondent No. 4 by Appellant. The paragraph no. 17 of the impugned order read as under: -

> *"17. It is directed that the aforesaid permission to travel abroad is subject to the following conditions:*
> ***1) <u>Petitioner no. 2 shall furnish cash security/bank transfer of Rs. 10 Lacs in favour of respondent no. 4-bank. Respondent no. 4-bank is directed to furnish details of accounts to the learned counsel appearing for the petitioners on the E-mail Id which is reflected in today's order, for the purposes of remittance of the amount in question to the respondent no. 4-bank</u>.***

[1] Details have been provided in Para 6 (vi) of the appeal

2) Petitioner no. 2 shall intimate her details regarding her place of stay, detailed addresses, telephone, contact numbers, including cell phone in detailed itinerary to the bank.
3) Petitioner no. 2 shall not seek any extension of time from abroad on any account.
4) Petitioner no. 2 shall intimate her departure and arrival in India to the respondent no. 4-bank, supported with photocopy of ticket details.
5) In case the petitioner no. 2 commits breach of any condition, the aforesaid security amount shall be forfeited to the respondent no.4-bank and non-bailable warrants will be issued against her."

(Emphasis Supplied)

3. The learned counsel for the Appellant states that the Appellant is a homemaker and she was never involved in the operations, working or business of the Company, either directly or indirectly and the Appellant stood as a personal guarantor for the facilities taken by the Company from the Respondent No. 4 Bank and other banks only at the direction and behest of her husband.

3.1 He further states that imposition of a cash security/bank transfer of Rs. 10 Lakhs, as directed by the learned Single Judge, not only lacks legal basis but also creates an undue financial burden on the Appellant, who is already facing challenging circumstances.

4. In reply, learned counsel for the Respondent No. 4 states that in fact, the impugned order was passed with the consent of the Appellant. He states that it is a matter of record that this Company has defrauded 26 banks and there are several criminal proceedings pending against both Appellant herein and Mr. Vijay Madanlal Choudhary.

5. We have heard the learned counsel for the parties and perused the record including the record of W.P.(C) 4258/2024.

6. The Appellant herein approached the learned Single Judge on 20th March, 2024 seeking urgent interim relief for permission to travel abroad

from 22nd March, 2024 to 28th April, 2024 and in this regard prayed for suspension of the LOC issued by the Respondent No.4. The Appellant relied upon the permission granted by the learned ACMM, Mumbai on 16th March, 2024 for the same period.

7. The learned Single Judge granted conditional permission to the Appellant and placed the matter before the Joint Registrar on 22nd March, 2024 for verification of the compliances of the conditions, in view of the urgency expressed by the Appellant. The Appellant, however, sought an adjournment before the Joint Registrar on 22nd March, 2024 and subsequently again on 05th April, 2024. The Appellant failed to comply with the conditions imposed in the impugned order. Instead, the Appellant preferred the present appeal which has been listed today for the first time on board. In this process, the period from 22nd March, 2024 to 09th April, 2024 already stands lapsed, whereas the permission was granted for a limited period from 22nd March, 2024 to 28th April, 2024. This lackadaisical approach of the Appellant shows that she is in no hurry to travel abroad and, in fact, it belies the sense of urgency with which she initially approached the learned Single Judge.

8. In the facts of the present case, where eight criminal complaints are already pending against the Appellant by the other consortium banks and an LOC has been issued at the behest of Respondent No. 4, the imposition of the condition no. 1 by the learned Single Judge for securing the Appellant's return to India cannot said to be onerous. The learned Single Judge while passing the interim order has sought to balance the interest of both the parties, as the writ petition continues to remain pending.

9. Considering the scale of financial debt involved in the matter and the

status of the Appellant, the imposition of the condition of security deposit of Rs. 10 Lakhs in favour of Respondent No. 4 Bank appears to be more than reasonable. We find merit in the submission of the Respondent No. 4 that filing of the present appeal is an afterthought.

10. For all the above reasons, we find no merits in the present appeal and the same is accordingly dismissed along with pending application.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 9, 2024/hp/MG