

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

WRIT PETITION NO. 4195 OF 2025

Chaitya Shah s/o Rajesh Shah
age 53 , residing at 501, 5th floor,
Jai Bhavani, R.R. Thaker Marg,
Walkeshwar, Mumbai – 400 006

... Petitioner

versus

1. Union of India,
through the Ministry of External Affairs,
South Block, E Block, Central Secretariat,
New Delhi – 110 001.
Having its Mumbai address at :
C-45 Bandra Kurla Complex Road,
G Block, Bandra Kurla Complex,
Mumbai-400 098.
2. Bureau of Immigration,
Ministry of Home Affairs,
Through the Immigration Officer,
Government of India,
East Blok-VIII, Level-V, Sector-1,
R.K. Puram, New Delhi-110 066,
Having its Mumbai address at :
Chhatrapati Shivaji Maharaj
International Airport, Navpada,
Vile Parle-East Mumbai -400 099.
3. Serious Fraud Investigation Office,
No.1-m 6th floor, Building 1,
Mahatma Gandhi Road,
Azad Maidan, Fort,
Mumbai, Maharashtra-400 001.
4. State of Maharashtra,
Through the Office of the

Public Prosecutor,
High Court, Bombay.

... Respondents

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Mr.Rahul Agarwal with Mr.Aman Arora, Adv.Jarmin Purani, Ms.Reema Prajapati i/b Mr.Rahul Agarwal for the Petitioner.

Mr.D.P. Singh for Union of India – Respondent Nos.1 to 3.

Mr.Mayur Sonavane, APP for the State – Respondent No.4.

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**CORAM : RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.**

DATE : 6TH AUGUST, 2025

JUDGMENT (Per: Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally, by the consent of the parties.

2. The Petitioner before us is Chaitya Shah, aged about 37 years, residing at residing at 501, 5th floor, Jai Bhavani, R.R. Thaker Marg, Walkeshwar road, Mumbai. He claims to have a major export-import business in the diamond industry. His business is spread across Hong Kong, and USA. His permanent residence is in Mumbai, at the address mentioned in the title cause.

3. He has specifically put forth his contentions in paragraph Nos.

4.1 to 4.16 and grounds as set out in para 6, which read as under :-

“4.1 It is submitted that the SFIO [Respondent No. 3 herein] was investigating into the affairs of M/s. Gitanjali Gems Ltd., which is a company having one Mr. Mehul Choksi as one of the directors against whom criminal proceedings were initiated by the Respondent No. 3 and other law enforcement agencies.

4.2 It would be important to clarify herein that the Petitioner was never a director in M/s. Gitanjali Gems Ltd. and had absolutely nothing to do with the functioning and affairs of the company. The Petitioner was a bona fide shareholder who had invested out of his own funds and purchased 68,02,896 convertible warrants of M/s. Gitanjali Gems Ltd. worth Rs. 49,25, 71,553/- (Indian Rupees Forty Nine Crores twenty five lakhs seventy one thousand five hundred and fifty three only) between January 2015-August 2016. After years of investigation by other agencies like Central Bureau of Investigation and the Directorate of Enforcement, no role came to be attributed to the present Petitioner which is evidenced from the undisputed fact that he is not named as an Accused in by any other law enforcement agencies.

4.3 It is submitted that the Respondent No. 3 issued summons to the Petitioner under Section 212 (1) (c) and (d) of the Companies Act, 2013. It is submitted that Respondent No. 3 via the aforesaid summons called upon the Petitioner for examination in connection with investigation into the affairs of M/s. Gitanjali Gems Ltd.

4.4 In compliance of the aforesaid summons, it is submitted that the Petitioner voluntarily joined the investigations on all the dates on which a summons was issued.

4.5 Further prior to issuance of aforesaid summons, the Petitioner had received emails dated 12 March 2019 and 03 December 2019 from Respondent No. 3 wherein documents in relation to his companies had been sought and thereafter after issuance of summons in September 2020, the Respondent No. 3 vide email dated 22 February 2021 again requisitioned more documents from the Petitioner.

4.6 It is to be noted that the Petitioner has duly furnished all the necessitated documents and information by addressing emails [hereinafter referred to as the “said emails”] to the office of Respondent No. 3. Further the Petitioner craves leave of this Hon’ble Court to refer and produce all documents submitted to Respondent No. 3, if so deemed necessary.

Knowledge of the Impugned LOC

4.7 Further, it is most humbly submitted that on 10.09.2020 when the Petitioner reached New Delhi Airport for travelling back to Hong Kong, to the utter shock and surprise of the Petitioner, while the Petitioner was in the process of boarding the flight, he was denied permission to go past the immigration check. The Immigration Officer put a stamp “**cancelled without prejudice**” on the passport of the Petitioner and did not permit him to travel and thereafter was informed about the issuance of Look out Circular (LOC) by the Respondent No. 3 preventing him to travel abroad without their due permission and as a consequence the Petitioner was suddenly detained and restricted from travelling outside India.

4.8 The Petitioner was forbidden to undertake his return to Hong King and was constrained to stay in India. It is submitted that till date the Petitioner is neither allowed inspection nor has received a copy of the

Impugned LOC or has access to the particulars of the Impugned LOC.

4.9 Consequently, vide a representation dated 03 August 2021, the Petitioner sought information regarding issuance of the Impugned LOC, copies of the same and requested Respondent No. 3 to permit him to travel to Hong Kong to attend his business affairs and to fulfil his duties towards his family. However, till date the SFIO has not replied to the aforesaid Representation.

*Copy of Representation dated 03 August 2021 to SFIO is annexed and marked herewith as **Exhibit “B”***

4.10 The Petitioner's right to travel guaranteed under Article 19 of the Constitution of India was blatantly violated by the Respondent No. 3 especially in the light of no role of the present Petitioner regarding pending investigation pertaining to GGL which he had highlighted in the said Letter.

4.11 It is most humbly submitted that the Petitioner aggrieved by the Impugned LOC had previously moved a **Criminal Writ Petition No. 3058 of 2021** titled **Chaitya Shah v. Union of India & Ors.** seeking quashing and setting aside of Impugned LOC which was rejected by this Hon'ble Court in light of the circumstances at the time and with the intent of completion of effective investigation into the affairs of M/s. Gitanjali Gems Ltd.

*Copy of the final Order dated 17 November 2021 in **Criminal Writ Petition No. 3058 of 2021** titled **Chaitya Shah v. Union of India & Ors.**” is annexed and marked herewith as **Exhibit “C”**.*

4.12 It is submitted that since the previous rejection of the aforesaid Writ Petition, there has been a

significant change in circumstances of Petitioner and the fact that the Petitioner has not received any communication from the Respondent No.3 since 22nd February 2021 and neither has he been called for any questioning after 22nd February 2021.

4.13 *Further, it is submitted that this Hon'ble Court has the appropriate jurisdiction to entertain the present Petition.*

4.14 *By way of the present Petition, the Petitioner is challenging blatantly mala fide, illegal and ill-founded LOC issued by the SFIO and the arbitrary and ill-conceived actions at the behest of Bureau of Immigration of preventing the Petitioner from travelling abroad.*

4.15 *The Petitioner is a respectable citizen of this country and has deep roots in the society, who has no criminal antecedents.*

4.16 *Hence the present Petition."*

4. Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) reads as under:

"528. Saving of inherent powers of High Court.- Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

5. In view of the above, the Petitioner has put forth prayer clause

(A & B) in the Petition, which read as under :-

“A. Pass necessary orders and directions, thereby calling for entire records by the Special Fraud Investigation Officer (SFIO) (Respondent No.3 herein) pertaining to issuance of LOC against the present Petitioner.

B. Pass necessary orders and directions thereby to recall, quash and set aside the order / decision of the Respondent No.3 issuing the LOC against the Petitioner as being highly arbitrary, illegal and without authority of law and is in violation of Articles 14, 19 and 21 of the Constitution of India.”

6. The learned Advocate, Mr.Rahul Agarwal submits that a Look Out Circular (LOC) was issued by SFIO which came to the knowledge of the Petitioner on 10th September, 2020, when he was detained at the New Delhi Airport while he was returning back to Hong Kong. Thereafter, the Petitioner has travelled abroad quite frequently, but, only after obtaining appropriate orders from this Court, which have been granted on several occasions. He has abided by the directions issued to him and has discharged his obligations with regard to the conditions that were imposed upon him while the LOC was suspended to enable him to travel abroad. There is no allegation against him that he has violated any of the conditions imposed on him.

7. The ground for filing this Petition is that, since the entire investigation with regard to the Petitioner's conduct and purported involvement in any offence, has concluded, the LOC may now be cancelled.

8. The learned Counsel Shri D P Singh, submits or instructions that no material was found against the present Petitioner, Chaitya Shah, during the investigation. The file was forwarded to the Director, SFIO, New Delhi. That file was forwarded to the Central Government. The Central Government has not granted sanction to lodge a complaint against the present Petitioner before the Sessions Court since there is no material against him. The investigation did not reveal anything objectionable about his conduct or involvement in any offence. He is not required for further investigation, and the LOC need not be continued. He is also not named in the chargesheet.

9. In view of the above, **this Writ Petition is allowed** in terms of the prayer clause 11(B). The LOC stands quashed and set aside. The concerned authority, Respondent No. 3 herein, shall intimate the Immigration Authorities at all points of departure from this country, that the LOC is quashed.

10. Needless to state, the aforesaid order is restricted to the case brought before this Court in the present Petition and shall not be applicable to any other case wherein any restriction has been imposed upon the Petitioner or that the Petitioner is an accused.

11. Rule is made absolute in the above terms.

(GAUTAM A. ANKHAD, J.)

(RAVINDRA V. GHUGE, J.)