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W.P.No.32416 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

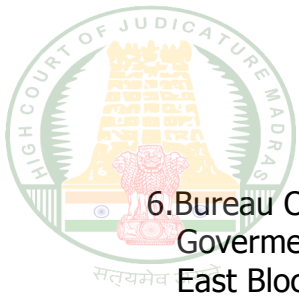
Writ Petition No.32416 of 2023
and W.M.P.No.32043 of 2023

Naveen Bokadia
S/o. Naresh Kumar Bokdia, No. 1/1, Hunters Lane,
Hunters Road, Vepery, Chennai 07

... Petitioner

-Vs-

- 1.The Senior Assistant Director
Serious Fraud Investigation Office (SFIO), Corporate Bhavan,
No. 29, Rajaji Salai, Ground Floor, Chennai 01.
- 2.The Senior Immigration Officer
(batches A, B, C, D) , International Departure,
Anna International Airport, Meenambakkam,
Chennai 27
- 3.The Senior Immigration Officer
(batches A, B, C, D) , International Arrival,
Anna International Airport, Meenambakkam,
Chennai 27
- 4.The Immigration Officer
International Airport Authority Of India,
Chennai
- 5.The Foreigner Regional Registration Officer (FRRO)
Shastri Bhavan, Annex Building 26 Haddows Road,
Nungambakkam, Chennai 06



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6. Bureau Of Immigration Ministry of Home Affairs
Government Of India, Rep. By Its Commissioner (Immigration),
East Block VIII, Level V Sector -1 R.K.Puram New Delhi

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... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from infringing the petitioner's right to travel abroad with his wife and two children, by withdrawing the Lookout Circular issued at the instance of the 1st respondent against the petitioner.

For Petitioner : Ms.Ramya Subramaniam
For Respondents : Mr.B.Mohan – for R1
R2 to R6 – No appearance

ORDER

The writ petition is filed to issue a Writ of Mandamus forbearing the respondents from infringing the petitioner's right to travel abroad with his wife and two children by withdrawing the Lookout Circular issued at the instance of the first respondent against the petitioner.

2. The case of the petitioner is that the petitioner is a partner in Kriti Textiles since 2020 and was also acting in the capacity of General Manager (Operations) of M/s.Surana Industries Limited and he resigned on 30.11.2017. He also acted as Additional Director of Surana Green Energy Private Limited from 27.05.2016 and Surana Green Power Private Limited from 27.05.2016. While so, the first respondent initiated investigation on 28.10.2019 and after completion of the investigation, a complaint is also now filed and taken on file as Special C.C.No.1 of 2023 before the XV

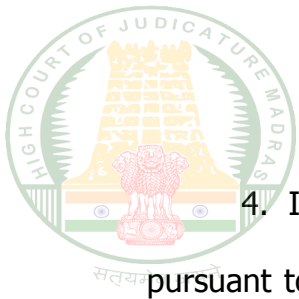


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Additional City Civil Court (Special Court for SFIO) for the alleged offences under Section 447 of the Companies Act, 2013. The petitioner is arrayed as Accused No.27.

The petitioner was not even arrested with reference to the said case and the petitioner is regularly appearing before the said Court and has also filed CrI.M.P.No.4186 of 2023 under Section 88 of Cr.P.C and the same is pending. Therefore, the Lookout Circular that is issued against the petitioner is absolutely without any basis and there is no apprehension that the petitioner is at flight risk or that the petitioner's travelling abroad will be detrimental to the case of the prosecution. In the circumstances, when the petitioner has made repeated representations to revoke the Lookout Circular, the same has not been done and therefore the petitioner is before this Court.

3. The writ petition is resisted by the first respondent by filing a counter affidavit. The details of the transactions with reference to the said Surana Group of Companies which was found to be fraudulent and were investigated are all given in the counter affidavit. Suffice it to state that by way of siphoning off funds etc., it is alleged that huge amounts of money is said to have been siphoned off and misappropriated by the persons involved with the said Surana Group of Companies, which includes the petitioner also. It is asserted that the loss suffered by various financial institutions are to the tune of Rs.8000 Crores. Therefore, the charge sheet is filed and the prosecution is pending.



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4. It is the further contention on behalf of the respondents that already pursuant to the judgment of the Delhi High Court, the Government of India has also issued Office Memorandum in No.25016/10/2017-Imm(Pt.) dated 10.08.2021, by which it has been now recognized that the Courts before which the trial is pending are also empowered to deal with the revocation of the Lookout Circulars. Therefore, the petitioner if at all makes an application to travel abroad, the trial Court itself, at the time of granting permission to the petitioner, can order revocation of the Lookout Circular and in the event the trial Court granting permission, this writ petition need not be entertained.

5. Heard Ms.Ramya Subramaniam, learned counsel for the petitioner. Reiterating the aforesaid submissions that were made, the learned counsel would also rely upon the judgment of the Division Bench of this Court in **Karti P Chidambaram -vs- Bureau of Immigration and Others** reported in **2018 SCC Online Madras 2229** to contend that the issue of Lookout Circular is on a limited premise of securing the absconding persons to justice. In the case of the petitioner, the petitioner never absconded and as a matter of fact, the petitioner was not even arrested. He is appearing before the trial Court for all the hearings. No ground at all existed in the first place to issue the Lookout Circular itself. Relying upon paragraphs 71 to 74 of the said judgment, the learned counsel would submit that this Court, under Article 226 should interfere with the matter and grant relief to the petitioner. Learned counsel for



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the petitioner had also produced certain other judgments which were all on the same proposition.

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6. Learned counsel would rely upon the judgment of the Hon'ble Supreme Court in **Maneka Gandhi Vs Union of India (MANU/SC/0133/1978)** for the proposition that travelling abroad is a fundamental right and unless sufficient ground exists, except by due process of law, the said right cannot be meddled with. Learned Counsel, upon a query by this Court, had also filed additional affidavit filed by the petitioner that the petitioner will undertake the mandatory requirement of filing an application before the aforesaid trial Court and getting permission of the trial Court before leaving abroad. In view thereof, the learned counsel would submit that there is due protection for the respondents that the petitioner would travel abroad only after the trial Court grants permission and then the Lookout Circular as such is unnecessary and issued without jurisdiction in the first place and cannot remain in the case of the petitioner alone.

7. Per contra, Mr.B.Mohan, leaned counsel appearing on behalf of the first respondent would submit that logically if the petitioner has to take the permission of the trial Court even as per the circular of the Government of India, the trial Court also has the power to revoke the Lookout Circular, then this Court need not entertain the writ petition at all. If at all the petitioner wants to travel abroad and makes an



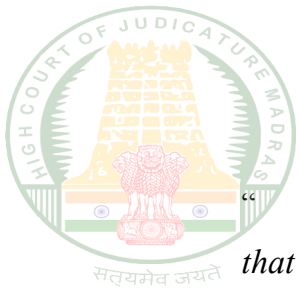
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application, and if the trial Court after hearing the respondents is of the opinion that the petitioner can be permitted to travel abroad, then at that time the Lookout Circular can be recalled and revoked. Therefore, if the prayer as sought for in this writ petition is granted now by this Court and the petitioner leaves the country without taking permission, then thereafter it would be difficult to secure the presence of the petitioner for the criminal case.

8. It is his further submission that the offence is serious in nature and involves several crores of rupees and therefore the petitioner's presence is very much necessary for the trial and the Lookout Circular need not be interfered with by this Court. He would submit that the petitioner is one of the accused in an offence involving hundreds of crores of rupees, it is not a case where this Court should exercise the jurisdiction.

9. I have considered the rival submissions made on either side and perused the material records of this case.

10. In the first place, the law relating to the issuance of Lookout Circular has since been elucidated by the Division Bench of this Court in **Karti P Chidambaram's case** cited supra, it is essential to extract Paragraphs 74 and 75 of the said judgment, which reads as under:

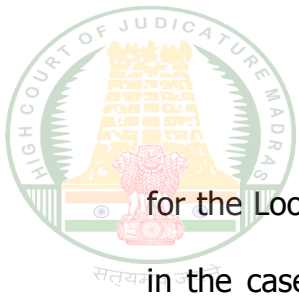


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74. It is, in the view of this Court, too late in the day to contend that whether or not to issue an LOC, being a executive decision, the same is not subject to judicial review. It is now well settled that any decision, be it executive or quasi-judicial, is amenable to the power of judicial review of the writ Court under [Article 226](#) of the Constitution of India, when such decision has adverse civil consequences. An LOC, which is a coercive measure to make a person surrender and consequentially interferes with his right of personal liberty and free movement, certainly has adverse civil consequences. This Court, therefore, holds that in exercise of power of judicial review under [Article 226](#) of the Constitution, the writ Court can interfere with an LOC. The question is whether the writ Court should exercise its discretionary jurisdiction to interfere with the impugned LOC.

75. In view of the finding of this Court that the conditions precedent for issuance of the impugned LOC were absent, and the impugned LOC is liable to set aside on that ground, we need not go into the questions of whether an LOC could have been issued without statutory sanction, or whether the respondents concerned had jurisdiction to issue the impugned LOC. However, in our view, the Look Out Circular was issued in hot haste when the conditions precedent for issuance of such Circular did not exist. The impugned Look Out Circular is, thus, liable to be set aside.”

11. Thus, it could be seen that the Lookout Circular has to be issued only for securing the persons to justice and if the person is absconding etc., When the petitioner is very much appearing before the trial Court, then there is no justification



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for the Lookout Circular to continue. As far as his right to travel abroad is concerned, in the case of the petitioner since the case has already been taken on file and the criminal case is pending, it is just and necessary that the petitioner takes the permission of the trial Court before leaving the country.

12. In that view of the matter, if the petitioner is at flight risk or that the travelling abroad of the petitioner would hamper the case or would affect the evidence that is relating to the case etc., the same can be contested by the respondent investigating agency in the application that is to be filed before the trial Court and the trial Court will consider the facts and circumstances of the case and take decision whether to permit the petitioner to travel abroad or not. Therefore, when the remedy is very much available to the respondent agencies by objecting before the trial Court, the Lookout Circular cannot stand. The only contention that is made on behalf of the respondents is that, without complying with the undertaking that is given before this Court if the petitioner clandestinely leaves the country, then there would be no answer to the same. That apprehension is genuine, but however, the provisions relating to the issuance of Lookout Circular does not empower to create a blockage on the ground of apprehension. It is only for a specific purpose the Lookout Circular can be issued and for all persons involved in criminal cases, automatically this travel to abroad should not be blocked on the apprehension that he may flee justice. Even before this Court in the counter affidavit, it is not specifically pleaded by the



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respondents that the petitioner is at flight risk. Therefore, the said apprehension cannot be treated as reasonable apprehension by this Court.

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13. In view thereof, the following directions are issued:

- (a) The respondents 2 and 6 are directed to revoke the Lookout Circular against the petitioner.
- (b) The petitioner shall file an application before the trial Court and shall not travel abroad without getting the leave of the trial Court.

14. The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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D.BHARATHA CHAKRAVARTHY, J.

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