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

+ **W.P.(CRL) 566/2023**

THILAKASRI KREPANAND & ORS.

.....Petitioners

Through: Ms. Vrinda Grover with Ms. Soutik Banerjee and Ms. Devika Tulsiani,
Advocates

versus

**UNION OF INDIA THROUGH BUREAU OF IMMIGRATION,
MINISTRY OF HOME AFFAIRS, & ANR.**Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Rahul Kumar Sharma, GP and Mr. Arnab Mittal, Advocate for UOI/R-1
Mr. Amol Sinha, ASC (CrI.) for the State/R-2 with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Ms. Chavi Lazarus, Ms. Sanskriti Nimbekar, Advocates with ACP Manoj Kumar, IFSO, Special Cell

**CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA**

ORDER
31.01.2025

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1. The present writ petition under Article 226 of the Constitution of India, 1950, read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing/removal of any Look Out Circular², order, instruction or direction issued by the Respondents, which prevents the Petitioners from travelling outside India.

¹ "CrPC"



2. At the outset, Mr. Amol Sinha, ASC (Crl.) appearing for Respondent No. 2 - Special Cell, Delhi Police, on instructions clarifies that there is no LOC issued against Petitioner No. 3 - Mr. Shubham Kar Chaudhuri. This statement is taken on record.

3. With respect to Petitioners No. 1 and 2, the impugned LOC originates from FIR No. 49/2021, registered at P.S. Special Cell, Delhi Police, under Sections 124A, 153A, 153, and 120B of the Indian Penal Code, 1860³. The said FIR pertains to the farmers' agitation on 26th January 2021.

4. Ms. Vrinda Grover, counsel for the Petitioners argues that none of the Petitioners are specifically named in the aforementioned FIR and Petitioner No. 1 has never even been summoned for investigation. As regards Petitioner No. 2, he was granted Anticipatory Bail by the Bombay High Court. Subsequently when he was summoned for investigation, he has duly appeared before the Investigating Officer. The Petitioners have fully cooperated with the ongoing investigation.

5. Ms. Grover also points out that one of the provisions invoked in the FIR — Section 124A of IPC regarding the offence of Sedition, is presently under challenge before the Supreme Court in in *S.G Vombatkere v. UOI*⁴, wherein the Supreme Court has passed the following order:

“7. Therefore, we expect that, till the re-examination of the provision is complete, it will be appropriate not to continue the usage of the aforesaid provision of law by the Governments.

xxx

xxx

xxx

8. In view of the clear stand taken by the Union of India, we deem it appropriate to pass the following order in the interest of justice:

xxx

xxx

xxx

8.2 We hope and expect that the State and Central Governments will

² “LOC”

³ “IPC”

⁴ (2022) 7 SCC 433



restrain from registering any FIR, continuing any investigation or taking any coercive measures by invoking Section 124-A IPC while the aforesaid provision of law is under consideration.

8.3. If any fresh case is registered under Section 124-A IPC, the affected parties are at liberty to approach the courts concerned for appropriate relief. The courts are requested to examine the reliefs sought, taking into account the present order passed as well as the clear stand taken by the Union of India.

8.4. All pending trials, appeals and proceedings with respect to the charge framed under Section 124-AIPC be kept in abeyance. Adjudication with respect to other sections, if any, could proceed if the courts are of the opinion that no prejudice would be caused to the accused.

8.5. In addition to the above, the Union of India shall be at liberty to issue the directive as proposed and placed before us, to the State Governments/Union Territories to prevent any misuse of Section 124-A IPC.

8.6. The above directions may continue till further orders are passed.”

[Emphasis added]

6. Ms. Grover further contends that, despite the FIR being registered way back on 4th February 2021, no chargesheet has been filed to date, indicating a lack of substantial progress in the investigation. She points out that the last notice issued to Petitioners No. 2 and 3 was on 15th March 2021, and since then, they have not been called for questioning or required to participate in any further investigation. She argues that, under these circumstances, the continued operation of the LOC is arbitrary and lacks justification, particularly when the authorities themselves have not found it necessary to seek the presence of the Petitioners for over three years. She submits that such a restriction amounts to an unwarranted curtailment of their fundamental right to travel, which is an intrinsic aspect of personal liberty guaranteed under Article 21 of the Constitution of India.

7. Mr. Amol Sinha, ASC for the State, while opposing the present petition, argues that FIR No. 49/2021 dated 04th February, 2021 under



Sections 124A, 153, 153A, 120B, 201 and 204 of IPC was registered at P.S. Special Cell, Delhi to investigate an alleged criminal conspiracy aimed at instigating disaffection against the Government established by law, inciting violence, and promoting ill-will between different groups through social media and other means. During investigation, one of the accused persons – Ms. Disha Ravi, who was arrested in this case from Bengaluru, was granted regular bail by the ASJ, Patiala House Court, New Delhi on 23rd February, 2021. One of the conditions imposed on her for grant of regular bail was that she would not to leave the country without the permission of the court. Thereafter, other alleged persons namely Petitioner No. 2 - Mr. Shantunu Muluk, Petitioner No. 3 - Mr. Shubam Kar Chaudhuri and Ms. Nikita Jacob (not a party to the present petition) also applied for anticipatory bails before the ASJ, Patiala House Court. The ASJ disposed of the said bail applications by directing the investigating agency to provide an advance notice of 7 days to the said persons prior to their arrest.

8. Just after the registration of the case, a team visited the residence of Petitioner No. 1 - Ms. Thilakashri, however, she was not present. Subsequently, during the investigation, LOCs were issued against the following persons, namely:-

- (i) Ms. Thilakasri Krupanand – Petitioner No. 1 herein
- (ii) Mr. Shantunu Muluk – Petitioner No. 2 herein
- (iii) Ms. Nikita Jacob – who is not a Petitioner herein.

9. Moreover, Mr. Sinha contends that the Petitioners, in the present case, fall squarely within the exceptions enumerated in Office Memorandum



(OM) dated 22nd February 2021⁵ issued by the Ministry of Home Affairs, Government of India, which provides the grounds for issuing LOC in cases involving serious offences relating to national security, public order, or criminal conspiracies.

10. Mr. Sinha submits that the investigation in the present FIR is still ongoing and involves suspected individuals operating from multiple foreign jurisdictions, necessitating stringent measures, including the issuance of an LOC, to prevent potential hindrance to the probe. He asserts that, given the nature of the allegations, there exists a genuine apprehension that the Petitioners may abscond to evade investigation and trial. Moreover, he submits that the LOC was issued based on the subjective satisfaction of the competent authority, after due consideration of the available material and the gravity of the offence. As such, he contends that the travel restrictions on the Petitioners serve a legitimate purpose. Furthermore, he submits that whenever the Petitioners have sought permission to travel abroad, their requests have been duly considered and granted, subject to necessary conditions.

11. The Court has carefully considered the rival submissions and the materials placed on record. A crucial factor that weighs against the continuation of the LOC is that the Petitioners have been permitted to travel abroad on multiple occasions during the pendency of these proceedings and have consistently returned to India. This conduct strongly negates the apprehension of flight risk, which is the primary rationale for issuing an LOC. Pertinently, these permissions were not granted by any judicial order but were approved by the Respondents themselves, reinforcing the

⁵ “OM”



conclusion that the authorities do not perceive the Petitioners as an actual flight risk.

12. Pertinently, it is undisputed that the investigation has been ongoing for nearly four years, and yet, no chargesheet has been filed against the Petitioners. The record does not indicate any travel restriction imposed by a competent court. The prolonged nature of the investigation, without any formal charge being framed, undermines the justification for perpetuating travel restrictions. In the absence of a specific order from a judicial authority directing the Petitioners to remain within the country, the continuation of the LOC would be arbitrary and excessive, serving no reasonable purpose other than imposing an undue and indefinite restraint on their fundamental right to travel.

13. Additionally, as noted earlier, the Petitioners have cooperated fully with the investigation, appearing before the Investigating Officer whenever summoned. There is no material placed on record to suggest non-cooperation or any attempt on the part of the Petitioners to evade the legal proceedings against them. In such circumstances, the issuance of an LOC, an exceptional measure meant to prevent absconding individuals from evading legal proceedings, cannot be justified against persons who have shown no inclination to flee or obstruct the course of justice. Given that the FIR does not specifically implicate the Petitioners as accused, and the investigation remains inconclusive, this Court finds no reason to allow the LOC to continue any further.

14. For the foregoing reasons, the present writ petition is allowed and the LOCs issued against the Petitioners No. 1 and 2 in relation to FIR No. 49/2021 are hereby quashed.



15. Copy of the order be sent to the Bureau of Immigration, Ministry of Home Affairs, for updation of their records.

SANJEEV NARULA, J

JANUARY 31, 2025
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