2026:DHC:1865

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

\+ **W.P.(C) 9234/2022 and CM APPL. 27680/2022**

Date of Decision: **11.02.2026**.

IN THE MATTER OF:

JOTIRMOY PRATUL KRISHNA GHOSE .....Petitioner

(Through: Mr. Tanveer Ahmed Mir, Sr. Advocate with Mr. Chandra Shekhar Anand and Ms.Yashodhara Singh, Advocates.)

versus

UNION OF INDIA & ANR. .....Respondents

(Through: Mr. Amit Tiwari, CGSC alongwith Ms. Ayushi Srivastava, Mr. Ayush and Mr. Arpan, Advocates for UoI.
Mr. Himanshu Pathak, SPC alongwith Mr. Vishal Singh and Mr. Nitin Gupta, Advocates for SFIO.)

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition is by a British national and an Overseas Citizen of India-card holder seeking the quashment of a Look Out Circular (*hereinafter referred to as the 'LOC'*) issued by respondent no.2 i.e. Serious Fraud Investigation Office (*hereinafter referred to as 'SFIO'*).

2. The facts of the case would indicate that *vide* order dated 11.05.2020, the Ministry of Corporate Affairs, Government of India in exercise of its

power under Section 212(1)(c) of the Companies Act, 2013 assigned the investigation *'**into the affairs**'* of Binani Cement Limited (*hereinafter referred to as 'BCL'*) to SFIO. The said order records that the Resolution Professional had made a representation on the avoidance transactions executed by the company including sales to potentially related/ connected parties without adequate collection of receivables, resulting in diversion of funds, loans and advances given to subsidiaries and related parties and foregoing interest of an amount of Rs.382.81 Crore.

3. The SFIO then started the investigation and as far as the role of the petitioner is concerned, the same has been briefly stated in paragraph no.3 of the status report filed on 10.02.2024. The said status report would further indicate that the investigation was at its advance stage and fund tracking activities were actively underway. The SFIO found that there were instances, where the funds were siphoned off in connection with the transactions. No doubt, the investigation so far reveals the complexity of the financial transactions with multiple layers of fund movement through shell entities, primarily based in Kolkata and Mumbai. There does not seem to be any reason to doubt the justification of the investigation. Even if the complicity of the petitioner is fully established, the SFIO would be fully empowered to take further action in accordance with law.

4. The petitioner states that when he was travelling back to Dubai after visiting his ailing mother, he was stopped at Kolkata by the immigration authorities on account of the LOC. The petitioner, thereafter, approached the respondent and according to him, he has fully co-operated with the investigation. He, therefore, submits that if the investigation is at its advance

stage and the petitioner is fully cooperating, no useful purpose would be served to keep the LOC in existence. He places reliance on various decisions of this Court.

5. The facts and the material available on record would further indicate that on 14.06.2022, 15.06.2022 and 16.06.2022, the petitioner joined the investigation with the SFIO for periods of 6, 6 and 3 hours respectively. The Court in its order dated 17.06.2022 also recorded the statement of the learned CGSC, who appeared on behalf of the respondents, that the petitioner has joined the investigation.

6. Thereafter, on 22.06.2022, yet again, the petitioner wrote an email to the Investigation Officer of SFIO, offering to join the investigation. On 30.06.2022, the petitioner joined the investigation, wherein, according to the petitioner, he was only asked four questions by the Investigating Officer.

7. The Court in the instant writ petition is only concerned with the justification of the continuation of the LOC.

8. From the factual matrix detailed hereinabove, it is clear that the petitioner has regularly joined investigation as and when called for. The purpose of an LOC is, in its essence, to ensure that the person concerned joins investigation and the purpose of the investigation does not get frustrated. In the instant case, on the basis of the material on record, there does not appear to be any apprehension of the petitioner's not joining the investigation. Even in the latest status report, there is no aspersion cast by the Investigating Agency against the *bona fides* of the petitioner *qua* his availability for investigation.

9. This Court in the case of ***Vineet Gupta v. Union of India*** & **ors** [1], while taking a note of various decisions *inter alia,* in ***Maneka Gandhi v. Union of India***[2], ***Sumer Singh Salkan v. Asst. Director***[3] and ***Viraj Chetan Shah v. Union of India***[4], has copiously reiterated that LOC is a coercive executive measure that directly impinges upon the fundamental right to travel, which forms an integral part of personal liberty under Article 21 of the Constitution of India. It was also emphasised that continuance of an LOC is not indefinite and must withstand strict judicial scrutiny on the touchstone of various factors like necessity, proportionality, fairness, and due process. Thus, it was held that where the subject has cooperated with investigation and there is no demonstrable requirement for restraint, continuation of the LOC would be arbitrary and liable to be quashed. The relevant extract of the aforenoted decision reads as under: -

> "*10. On the conspectus of the aforenoted decisions and memorandum, it is seen that the following guiding principles emerge governing the issuance, continuance, and judicial review of LOC:*
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> *(i) LOC constitutes a coercive executive measure having a substantial impact on the fundamental right to travel, which forms an integral facet of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Consequently, the power to issue an LOC must be exercised sparingly, strictly in accordance with law, and only upon satisfaction of the conditions prescribed under the governing Office Memoranda;*
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> *(ii) An LOC may be issued only in cases involving a cognizable offence under the relevant statutes, where specific, tangible material demonstrates that the person concerned is deliberately evading arrest or judicial process, or that there exists a real*

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[1] 2026 :DHC:1616
[2] (1978) 1 SCC 248
[3] 2010 SCC OnLine Del 2699
[4] 2024 SCC Online Bom 1195

and proximate likelihood of absconding;

(iii) Moreover, the exceptional power under Clause 6 (L) of the Office Memorandum dated 22.02.2021 is to be narrowly construed and may be exercised only in rare and compelling cases, where, the proposed departure of subject poses a clear and grave threat to the sovereignty, security, or integrity of India, or to its strategic or economic interests in a national or systemic sense, or the larger public interest;

(iv) An LOC issued at the instance of Chairman, Managing Director, or Chief Executive Officers of Public Sector Banks, would not withstand the scrutiny of law and judicial review. Thus, as of now, the LOC issued to Public Sector Banks cannot be sustained and are liable to be quashed;

(v) Courts, in exercise of writ jurisdiction, are duty-bound to subject the issuance and continuation of LOCs to strict scrutiny, balancing the legitimate interests of the State with the individual"s fundamental rights, and to quash such circulars where the restraint imposed is found to be arbitrary, disproportionate, lacking in statutory backing, or violative of the principles of fairness, reasonableness, and due process. Ultimately, the burden lies squarely upon the "originating agencies" to justify, the necessity, proportionality, and legality of the restraint, failing which such action cannot be sustained. Pertinent to observe that the continuance of an LOC is not indefinite and must be periodically reviewed. Where it is evident from the record that the subject has cooperated with the investigation, has not evaded the process of law, and where no further interrogation or presence is demonstrably required, the continued operation of an LOC would amount to an unreasonable and unjustified restriction on personal liberty;

(vi) However, it is also to be emphasised herein that the Writ Court is not the exclusive grievance redressal mechanism available to a person against whom a LOC has been issued. As held in Sumer Singh Salkan, a person against whom a LOC is issued is, in the first instance, required to join the investigation or surrender before the jurisdictional Court, or otherwise satisfy the Court that the LOC is unwarranted. The individual may also approach the authority which ordered issuance of the LOC and seek its withdrawal on the grounds of illegality or non-application of mind. An LOC may be withdrawn by the originating authority and may also be rescinded or modified by the trial Court or the Court having jurisdiction over the concerned police station, upon an appropriate application."

10. In any case, the Investigating Agency can always be empowered to take appropriate steps, in case the petitioner evades the investigation or fails to co-operate. The necessary liberty can be granted to the Investigating Agency to take the investigation to its logical conclusion.

11. Having considered the overall facts and circumstances, there does not seem to be any justification to allow the impugned LOC to remain in existence, the same is according set aside with the following conditions:-

(i) The petitioner shall submit an undertaking by way of an affidavit within a period of four weeks from today before the Investigating Agency affirming that he shall continue to co-operate in future investigation, if any, and shall appear before the Investigating Agency as and when required;

(ii) He shall produce all material documents requested from him by the Investigating Agency as may be available within his power/ possession;

(iii) He shall also furnish a full itinerary before the Investigating Agency at least fifteen (15) days prior to his travel;

(iv) In case any complaint is filed, the petitioner has to co-operate with the investigation into the said complaint. The said undertaking shall also be furnished by the petitioner by way of an affidavit to the Investigating Agency;

(v) In case the investigating agency or the Court has any reservation about the petitioner's travel, the Investigating Agency shall be entitled either to restrain him or to direct for issuance of a fresh LOC;

(vi) The petitioner shall continue to update the SFIO with respect to his latest address in every three months;

(vii) The petitioner shall also furnish the local address for service of summons or information including furnishing of his operation email id. Any notice served on his email id, shall be treated to have been the compliance of service of the notice.

12. With the aforesaid directions, the instant petition stands disposed of along with all pending applications.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 11, 2026
Nc/ksr