



2026:DHC:1616



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 7850/2025**Date of Decision: **10.02.2026****IN THE MATTER OF:****1. VINEET GUPTA**

S/O SHRI JAI DEV GUPTA, AGED ABOUT 56 YEARS,
RESIDENT AT A-130, NEW FRIENDS COLONY, NEW
DELHI - 110025

INDIAN CITIZEN HAVING

PASSPORT BEARING NO - Z8227827

... PETITIONER NO. 1

2. PRANAV GUPTA

S/O SHRI JAI DEV GUPTA, AGED ABOUT 58 YEARS,
RESIDENT AT H. NO. 481, SECTOR 6, PANCHKULA,
HARYANA - 134109

INDIAN CITIZEN HAVING

PASSPORT BEARING NO - C8875594

...PETITIONER NO. 2

Through: Ms. Neeha Nagpal, Mr. Malak Bhatt,
Mr. Ajatshatru Singh Rawat and Mr.
Nishta Juneja, Advs.

versus

1. UNION OF INDIA

THROUGH BUREAU OF IMMIGRATION

DEPUTY DIRECTOR

EAST BLOCK —VIII, LEVEL -2,

SECTOR -1, R.K PURAM, NEW DELHI-66

... RESPONDENT NO. 1

2. BANK OF BARODA

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SHARMA
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By:PURUSHAINDRA
KUMAR KAURAV





THROUGH ITS MANAGING DIRECTOR & CEO
AND
ALSO, THROUGH ITS BRANCH MANAGER
HAVING ITS BRANCH OFFICE AT
SCO 62-63, BANK SQUARE,
SECTOR 17-B, CHANDIGARH

.....RESPONDENT NO. 2

3. **UNION BANK OF INDIA**
THROUGH ITS MANAGING DIRECTOR & CEO
AND
ALSO, THROUGH ITS BRANCH MANAGER
HAVING ITS BRANCH OFFICE AT
4/14 ASAF ALI ROAD, NEW DELHI

...RESPONDENT NO. 3

Through: Mr. Santosh Kumar Rout. Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

CM APPL. 2533/2026 (filed by P-2 seeking suspension of LOC and permission to travel)

CM APPL. 4225/2026 (filed by P-1 seeking suspension of LOC and permission to travel)

The instant petition is seeking quashing of the Look-Out Circular(s) ('LOCs') issued by the Union of India ('UOI'), at the behest of respondent Nos. 2 and 3- Banks.



2. The present applications have been moved by petitioners seeking suspension of the LOC(s), issued against them and permission to travel abroad. Petitioner no. 1 seeks to travel to the United States of America (USA), United Kingdom (UK), Switzerland and Mexico for a period of three weeks, falling within the period from 10.02.2026 to 30.03.2026 and petitioner No.2 seeks to travel to Indonesia, Thailand, Vietnam and Cambodia from 05.03.2026 to 30.03.2026

3. It is the case of the petitioners that the sole basis for issuance and continuation of the LOC(s) is their alleged association as Promoters/Directors of M/s Parabolic Drugs Ltd. ('PDL'), which had availed credit facilities from a consortium of banks, including Respondent Nos. 2 and 3. The accounts of PDL were declared as "fraud" by the said respondents on 03.05.2016 and 18.05.2018, pursuant to which complaints were filed before the Central Bureau of Investigation ('CBI').

4. Consequent thereto, FIR No. RCBD1/2021/E/0010 dated 29.12.2021 came to be registered by the CBI under Sections 120-B, 406, 420, 467, 468 and 471 of the IPC, 1860 and Sections 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. An ECIR bearing No. CDZO-I/01/2022 dated 06.01.2022 was, thereafter, registered by the Enforcement Directorate ('ED'), and a prosecution complaint has since been filed.

5. The petitioner No. 1 seeks permission to travel abroad for the stated period in order to meet his daughters and spend time with his family. So far as petitioner No. 2 is concerned, he seeks permission to travel abroad during the aforesaid period to attend the wedding of his childhood friend's daughter and to spend time with his family and close friends.



6. It is not in dispute that this Court, *vide* order dated 06.06.2025, had earlier permitted the petitioners to travel abroad, subject to conditions, which have been duly complied with.

7. It is further noted that the petitioners have already been granted permission to travel abroad by the Special Judge, ED Court, Chandigarh *vide* order dated 09.12.2025 and by the Special Judge, CBI Court, Chandigarh *vide* order dated 10.12.2025. In the order dated 10.12.2025 passed by the Special Judge, CBI Court, Chandigarh, it appears that LOC issued by the CBI stood closed w.e.f. 01.08.2024, and the same is no longer in force. The respondent No. 2, however, opposes the applications on the ground that the fraud is of high magnitude.

8. At this stage, it is noted that rather than considering the applications, the Court, in the facts of the instant cases, deems it appropriate to consider the main petition on its merits.

9. I have heard learned counsel for the parties and have perused the record.

10. Before delving into the discussion of the legal explication of the regulatory framework governing the issuance of LOCs and the facts of the instant case, it is apposite to note that freedom of movement, both domestic and foreign, constitutes a core and inalienable facet of personal liberty and operates as an indispensable precondition for the holistic development of the human personality and livelihood. In foreign jurisprudence, the freedom to travel has been recognised as a vital incident of individual liberty, shielded by the guarantee of due process of law and embedded within the nation's constitutional heritage. Freedom of movement across frontiers, as part of the



nation's constitutional heritage, emphasises its intimate connection with personal choice and human dignity.¹

11. Moreover, in the Indian constitutional framework, the right to travel and freedom of movement has been recognised as an intrinsic facet of the fundamental right to life and “personal liberty” under Article 21 of the Constitution of India.² The Supreme Court has held that while this freedom is not expressly enumerated under any articles, it nonetheless commands constitutional protection and may be restricted only by a procedure established by law that is just, fair, and reasonable.

12. Bearing the aforesaid in mind, it is pertinent to delineate the evolution of the guidelines governing the issuance of LOCs. As already noted by this Court recently in *Anant Raj Kanoria V. Union of India & Anr*,³ the earliest instructions emanated from a letter issued by the Ministry of Home Affairs dated 05.09.1979, which authorised various agencies to monitor the arrival and departure of Indian citizens as well as foreigners. Thereafter, a more structured framework, confined to Indian citizens, was introduced by the Office Memorandum dated 27.12.2000.

13. However, in 2010, this Court in *Vikram Sharma v. Union of India*⁴ and *Sumer Singh Salkan v. Asst. Director*⁵ further elucidated the legal framework governing the issuance of LOC. In *Sumer Singh Salkan*, the Court held that recourse to issuance of LOC where the accused was deliberately evading arrest or not appearing in the trial Court despite non-bailable warrants and other coercive measures, and there was a likelihood of

¹ Reference to Kent v. Dulles, 357 U.S. 116 (1958)

² *Maneka Gandhi v. Union of India*. (1978 1 SCC 248)

³ W.P.(C) 3313/2023 dated 09.01.2026

⁴ 2010 SCC OnLine Del 2475



the accused leaving the country to evade trial/arrest should be taken. The Court, while answering the reference, held as under:-

“11. Look-out-Circular has also been issued against the petitioner as the petitioner is an accused the Court of M.M. and he has not appeared the Court of M.M. If the petitioner gives an undertaking the court for his appearance on a particular date, through his counsel, the Look-out-Circular issued against the petitioner shall be withdrawn within 24 hours of giving undertaking by the petitioner.

The questions raised in the reference are as under:

"A. What are the categories of cases in which the investigating agency can seek recourse of Look-out-Circular and under what circumstances?

B. What procedure is required to be followed by the investigating agency opening a Look-out-circular?

C. What is the remedy available to the person against whom such Look-out-Circular has been opened?

D. What is the role of the concerned Court when such a case is brought it and under what circumstances, the subordinate courts can intervene?

The questions are answered as under:

A. Recourse to LOC can be taken by investigating agency in cognizable offences under [IPC](#) or other penal laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest. B. The Investigating Officer shall make a written request for LOC to the officer as notified by the circular of Ministry of Home Affairs, giving details & reasons for seeking LOC. The competent officer alone shall give directions for opening LOC by passing an order in this respect.

C. The person against whom LOC is issued must join investigation by appearing I.O. or should surrender the court concerned or should satisfy the court that LOC was wrongly issued against him. He may also approach the officer who ordered issuance of LOC & explain that LOC was wrongly issued against him. LOC can be withdrawn by the authority that issued and can also be rescinded by the trial court where case is pending or having jurisdiction over concerned police station on an application by the person concerned.

D. LOC is a coercive measure to make a person surrender to the investigating agency or Court of law. The subordinate courts' jurisdiction in affirming or cancelling LOC is commensurate with the jurisdiction of cancellation of NBWs or affirming NBWs.

⁵ 2010 SCC OnLine Del 2699



14. Subsequently, the Ministry of Home Affairs issued a comprehensive Office Memorandum dated 27.10.2010, which confined the issuance of LOCs to cases involving cognizable offences under the IPC or other penal statutes, and restricted non-cognizable matters to intimation of travel movements only.

15. Subsequent amendments, including the Office Memorandum dated 05.12.2017, further limited the scope of LOCs in exceptional circumstances where the departure of a person was considered prejudicial to the sovereignty, security, integrity of India, bilateral relations, strategic or economic interests, or larger public interest, with further modifications effected by the memorandums dated 19.09.2018 and 12.10.2018.

16. It is pertinent to note that in the context of the aforementioned office memoranda, in *Karti P. Chidambaram v. Bureau of Immigration*⁶, the Madras High Court held that a LOC is a coercive executive measure which directly impinges upon personal liberty and, therefore, cannot be issued in a mechanical or routine manner. The Court observed that under the governing guidelines, an LOC can be resorted to only when there exists tangible material indicating deliberate evasion of arrest or a real likelihood of the individual fleeing the country.

17. However, in order to consolidate the directions for issuance of LOCs, the Ministry of Home Affairs issued a comprehensive Office Memorandum dated 22.02.2021, which presently governs the law with respect to the issuance of LOCs. The relevant extract of said Office Memorandum is as under :-

⁶ 2018 SCC OnLine Mad 2229



“6. The existing guidelines with regard to issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners have been reviewed by this Ministry. After due deliberations in consultation with various stakeholders and in suppression of all the existing guidelines issued vide this Ministry's letters/O.M. referred to in para 1 above, it has been decided with the approval of the competent authority that the following consolidated guidelines shall be followed henceforth by all concerned for the purpose of issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners:-

xxx xxx xxx

(H) Recourse to LOC is to be taken in cognizable offences under IPC or other penal laws. The details in column IV in the enclosed proforma regarding 'reason for opening LOC' must invariably be provided without which the subject of an LOC will not be arrested/detained.

(I) In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/arrested or prevented from leaving the country. The originating agency can only request that they be informed about the arrival/departure of the subject in such cases

xxx xxx xxx

(L) In exceptional cases, LOCs can be issued even in such cases, as may not be covered by the guidelines above, whereby departure of a person from India may be declined at the request of any of the authorities mentioned in clause (B) above, if it appears to such authority based on inputs received that the departure of such person is detrimental to the sovereignty or security or integrity of India or that the same is detrimental to the bilateral relations with any country or to the strategic and/or economic interests of India or if such person is allowed to leave, he may potentially indulge in an act of terrorism or offences against the State and/or that such departure ought not be permitted in the larger public interest at any given point in time.

18. The validity of the said Office Memorandum dated 22.02.2021, along with earlier amendments issued by the Ministry of Home Affairs governing the issuance of LOCs, fell for consideration before the Bombay High Court in a batch of petitions, the lead matter being **Viraj Chetan Shah v. Union of**



*India and Ors.*⁷. The principal challenge was to the constitutional validity of amendments which enabled the Chairmen, Managing Directors, and Chief Executive Officers of public sector banks to seek issuance of LOCs against defaulting borrowers, thereby restraining their right to travel abroad.

19. The petitioners, therein, contended that such executive instructions permitted a serious curtailment of personal liberty without any statutory backing or prescribed procedure, in violation of Articles 14 and 21 of the Constitution of India. It was urged that the right to travel abroad is an integral facet of the right to life and personal liberty, and cannot be restricted by executive fiat, particularly in matters arising out of civil or commercial defaults.

20. Upon an overall consideration of the issues, the Court reiterated that the right to travel abroad is an integral component of the right to life and personal liberty under Article 21 of the Constitution, and any restriction upon it must be founded on law and must follow a procedure that is fair, just, and reasonable. The Court categorically held that fundamental rights cannot be curtailed through executive instructions alone, in the absence of a governing statute or a controlling statutory framework. The Court further held that the Office Memoranda, viewed in their entirety, could not be characterised as per se arbitrary or unconstitutional, so as to warrant their wholesale invalidation. Nonetheless, the Court found a grave constitutional infirmity in the inclusion of Chairmen, Managing Directors, and Chief Executive Officers of all public sector banks under Clause 6(B)(xv) of the Office Memorandum dated 22.02.2021. Such inclusion was held to be bad in

⁷ 2024 SCC ONLINEBOM 1195



law, being arbitrary and unreasonable, founded on an improper and invalid classification, and resulting in the conferment of uncanalised, unguided, and excessive power upon bank officials to seek restrictions on personal liberty without any statutory guidance or procedural safeguards. It is also pertinent to note that a Special Leave Petition has been filed assailing the decision in ***Viraj Chetan Shah***. However, the decision of the Bombay High Court has not been stayed.

21. The decision in the case of ***Viraj Chetan Shah*** was also considered by a coordinate bench of this Court in ***Sahil Chugh v. Union of India***⁸, wherein, it was held that LOC issued at the behest of a public sector bank against borrowers/directors merely on account of loan default or declaration as wilful defaulters, in the absence of any criminal proceedings, are unsustainable in law. It was emphasized that the expression “detrimental to the economic interests of India” under the MHA guidelines is meant for exceptional cases involving grave, systemic or national economic impact, and not routine commercial defaults. Since in the facts of the case therein no FIR, charge-sheet, or cognizable offence was pending against the petitioner, and the disputes were purely civil and pending before the DRT, the Court quashed the LOC as arbitrary and disproportionate. The relevant extract of the aforesaid decision is extracted as under:-

21. It is well settled that merely because the Office Memorandum permits the issuance of a lookout circular in exceptional circumstances, even when an individual is not involved in any offence under the IPC or any other penal law, the said power should be used in exceptional circumstances and not as a matter of routine.

⁸ W.P.(C) 6623/2024





22. *This Court in Apurve Goel v. Bureau of Immigration, W.P.(C) 5674/2023, has held as under:—*

“22. The Look Out Circulars cannot be opened merely on the request of the banks. There has to be some application of mind by the authority concerned opening the Look Out Circular since the opening of Look Out Circular results in restraining a person's right to travel abroad. The authority opening the Look Out Circular must satisfy itself that the departure of a person against whom Look Out Circular has been opened would be detrimental to the sovereignty or security or integrity of India or that the same is detrimental to the bilateral relationship with any country or to the economic interests of India or departure of such a person ought not be permitted in the larger public interest at any given point in time.”

23. It is well settled that mere inability to pay money without there being a criminal case cannot be a reason to take away the Fundamental Right guaranteed under Article 21 of the Constitution of India. Right to travel abroad has been held to be a Fundamental Right under Article 21 of the Constitution of India which cannot be taken away in an arbitrary and illegal manner.

24. In Maneka Gandhi v. Union of India, (1978) 1 SCC 248, the Apex Court has held as under:

“5. ...Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, the procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney-General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law....”

25. A Division Bench of the High Court of Bombay in a batch of writ petitions vide Judgment dated 23.04.2024 in Viraj Chetan Shah



v. Union of India, W.P.(C)719/2020 etc. has quashed Clause 8(b)(xv) of the Office Memorandum dated 27.10.2010 bearing O.M. 23016/31/2010-Imm. equivalent to Clause 6(B)(xv) of the O.M. dated 22.02.2021 bearing O.M. 25016/10/2017-Imm.(Pt.) whereby the Chairman/Managing Director/Chief Executives of all Public Sector Banks could request for opening of an LOC. The effect of the said judgment is that the Chairman/Managing Director/Chief Executives of the Public Sector Banks cannot make a request for issuance of LOC.

26. The issuance of lookout circular cannot be resorted to in every case of bank loan defaults or credit facilities availed for business and the Fundamental Right of a citizen of the country to travel abroad cannot be curtailed only because of failure to pay a bank loan more so when the person against whom the lookout circular is opened has not been even arrayed as an accused in any offence for misappropriation or siphoning off the loan amounts.”

22. One of the respondents therein, i.e, Bank of Baroda, challenged the aforenoted decision of the Single Judge before the Division Bench in ***Bank of Baroda v. Sahil Chugh***.⁹ The Division Bench, while dismissing the appeal, has held as under :-

“12. Having heard the learned counsel for the parties and minutely examining the records, we find no reason to interfere or interdict the impugned judgment passed by the learned Single Judge.

13. So far as the OM dated 22.11.2018 issued by the Ministry of Finance is concerned, it is apparent that the Nodal Ministry which has the authority and jurisdiction to issue policies and guidelines in respect of the regime surrounding issuance of LOCs, is the MHA. That apart, even if we take the contents of para 3 of the said OM on its face value, it would, at best, amount to an advisory, over and above the guidelines of the MHA. Other than that, we cannot conceive that the same would be of a binding nature.

14. That apart, the other argument in respect of the term “detrimental to economic interest” is concerned, we find that in para 82 of Prateek Chitkara (supra), the Court noted that issuance of LOC cannot be resorted to in each and every case of bank defaults or credit facility availed of for business etc., and that citizens ought not be harassed or deprived of their liberty to travel merely due to their participation in

⁹ 2025 SCC OnLine Del 9282



business, whether in a professional or in a non-executive capacity. In fact, it was clearly observed that the circumstances surrounding issuance of an LOC have to reveal a higher gravity and a larger impact on the country. We agree with the said observations and find that the same would be squarely applicable to the facts of the present appeals. The learned Single Judge had also relied upon the judgment of this court in Apurve Goel v. Bureau of Immigration, W.P.(C) 5674/2023, rendered on 19.09.2023, particularly in para 22, which noted that the authority opening the LOC must satisfy itself that the departure of a person against whom an LOC has been opened, would be detrimental to sovereignty or security or integrity of India or that the same is detrimental to the bilateral relationship with any country or to the economic interest of India. In the absence of such foundational facts as laid down, the sustenance of an LOC cannot be upheld.

15. Merely, the inability to repay the debt, without there being a criminal case, cannot be a reason to deprive a citizen of this country of the fundamental rights envisaged and guaranteed under Article 21 of the Constitution of India.

16. Lastly, learned counsel for the appellant bank was unable to provide any counter argument or judgment to the ratio laid down by the Division Bench of the High Court of Bombay vide its judgment dated 23.04.2024 in W.P.(C) 719/2020 titled Viraj Chetan Shah v. Union of India, whereby Clause 8 (b) (xv) of the OM dated 27.10.2010 which was equivalent to Clause 6(B)(xv) of the OM dated 22.02.2021, empowering the Chairman/Managing Director/Chief Executive of all Public Sector banks who could make request for opening an LOC, was quashed. The very right, authority and jurisdiction of the Principal Officers of the Public Sector Banks to make a request for issuance of LOC having been divested, the question of relying on the OM issued by the Ministry of Finance etc., would be rendered meaningless. Thus, the contention predicated on the said OM is unpersuasive.

17. Learned counsel for the appellant bank had also contended that the right to freedom to movement or travel, though a fundamental right yet, is neither unfettered nor unrestricted, and therefore the appellant bank has every right to seek issuance of LOCs against persons or institutions which have been declared as wilful defaulters. The argument, no doubt, appears to be attractive, however, lacks substance. Undoubtedly, the right to freedom to travel may not be an unrestricted or unfettered right, however, the restrictions or fetters pitched against such fundamental rights have to pass the test of judicial review. Keeping in view the aforesaid judgments as also the ratio laid down by the Division Bench of the Bombay High Court in Viraj Chetan (supra), quashing the very power and jurisdiction of the banks to seek issuance

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of LOCs, there cannot be any restriction which we could read prohibiting the travel of the respondents freely. In that view of the matter, the said submission has no merits.”

23. It is also pertinent to note the decision of this Court in ***Rajesh Kumar Mehta v. Union of India***.¹⁰ The relevant extract of the aforementioned decision reads as under: -

“18. In terms of the said OM, an LOC can be issued at the request of the Chairman/Managing Directors/Chief Executive of all Public Sector Banks. A request is given by a person, who is authorized under the said OM, to the Bureau of Immigration and then the Bureau of Immigration at the request of the said Officer opens the Lookout Circular.

19. The Office Memorandum indicates that the legal liability of the action taken by the immigration authorities in pursuance of the Lookout Circular rests with the Originating Agency, in this case, the Bank of Baroda.

20. Clause L of the Office Memorandum of 2021, as quoted above, states that in exceptional cases, an LOC can be issued at the instance of the Bank if the authorities are of the view that letting the person to depart from the country will be detrimental to the economic interests of India.

21. A perusal of the abovementioned Clause L of the Office Memorandum shows that in exceptional circumstances Lookout Circulars can be issued even in such cases which are not covered by the said guidelines which can be issued even when there is no criminal case against the person and person against whom investigation is pending and if it appears to the authorities based on the inputs that the departure of such person is detrimental to the sovereignty or security or integrity of India or bilateral relations or the strategic and/or economic interests of India. the term ‘detrimental to the economic interests of India’ has been well defined in several judgments.

25. Lookout Circular has been issued against the Petitioner only because of the inability of the company to repay its debts for which the Petitioner stood guarantee. There are no criminal proceedings against the Petitioner and there is no allegation that the Petitioner was instrumental in defalcation or siphoning off the money. The Bank has

¹⁰ 2024 SCC OnLine Del 4153



already initiated steps against the Petitioner and the company by taking steps under the RDDB Act, SARFAESI Act and under the IBC. This Court is of the opinion that after resorting to all the remedies available in law, the Bank cannot open a Lookout Circular as an arm-twisting tactic to recover debt from a person who is otherwise unable to pay more so when there are no allegations that he was engaged in any fraud or in any siphoning off or defalcation of the amounts given as loan.

26. Lookout Circular is a major impediment for a person who wants to travel abroad. There is plethora of judgments which states that no person can be deprived of his right to go abroad other than for very compelling reasons. In *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, the Apex Court has held as under:—

“5. ...Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, the procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney-General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law....”

27. In view of the above, the Lookout Circular (LOC) issued against the Petitioner is hereby quashed.

24. In *Shalini Khanna v. Union of India*,¹¹ also, this Court held as under: -

“20. Though Paragraph (L) of the aforesaid Office Memorandum permits the Banks to issue a request for opening a lookout circular, in

¹¹ 2024 SCC OnLine Del 837



exceptional cases, even if they are not covered by the guidelines, even in such of those cases, the same can be issued only if departure of such person is detrimental to the sovereignty or security of the country, or departure of the person is threat to the bilateral relations to any country, or to the strategic or economic interest of the country, or if such person is allowed to leave, he may potentially indulge in acts of terrorism or offences against State or that such departure ought not be permitted in larger public interest at any given point of time.

21. It is well settled that merely because the Office Memorandum permits the issuance of a lookout circular in exceptional circumstances, even when an individual is not involved in any offence under the IPC or any other penal law, the said power should be used in exceptional circumstances and not as a matter of routine.

22. The term 'detrimental to the economic interests' must be of such a magnitude that it can significantly affect the economic interest of the country. In the present case, the total loan amount disbursed is about Rs. 7 crores and even if one adds the interest to it, it cannot be said that the amount is so large that it will affect the economic interests of the country.

23. The issuance of lookout circular cannot be resorted to in every case of bank loan defaults or credit facilities availed for business and the Fundamental Right of a citizen of the country to travel abroad cannot be curtailed only because of failure to pay a bank loan more so when the person against whom the lookout circular is opened has not been even arrayed as an accused in any offence for misappropriation or siphoning off the loan amounts."

25. Moreover, in *Anastasiia Pivtsaeva & Anr. v. Union of India & Ors.*¹², this Court held that mere association or a familial relationship with an accused, absent any concrete material showing direct involvement or complicity in the alleged offence, cannot justify adverse action such as denial of security clearance or the continuation of coercive measures.

26. A comprehensive discussion of the law with respect to LOC has also been undertaken by the Court in *Puja Chadha v. Directorate of*

¹² 2024 SCC OnLine Del 5170



Enforcement.¹³ The Court, while relying on the decisions in the cases of *Prashant Bothra v. Bureau of Immigration*¹⁴ *Dhruv Tewari v. Directorate of Enforcement*¹⁵ *Sumer Singh Salkan , Brij Bhushan Kathuria v. Union of India*¹⁶ and *Anastasiia Pivtsaeva*, held that the power to issue an LOC is an exceptional and coercive measure which has a direct bearing on an individual's fundamental right to travel, and therefore must be exercised strictly in accordance with law. Emphasising the aforesaid, this Court in the case of *Sandeep Dhanuka v. Directorate of Revenue Intelligence*,¹⁷ has also dealt with various aspects of the issuance of LOC and its continuation. The relevant extract of the aforesaid decision reads as under:-

“40. The aforementioned Office Memorandums have been examined and interpreted in several other judicial pronouncements as well.

41. In Prashant Bothra v. Bureau of Immigration., 2023 SCC OnLine Cal 2643, it was held as under:

“39. In the present case, as rightly pointed by learned counsel for the petitioners, the stage of investigation within the contemplation of Section 212(1) - (4) of the 2013 Act is not yet over. Thus, as of today, whatever may the allegations against the petitioners or the Company of which they were Directors and guarantors, the same cannot tantamount to a cognizable offence against the petitioners.

xxx xxx xxx

47. The said citation by the SFIO is not relevant in the present case. In the present case, no “trial” has started and/or any arrest has been made or sought to be made. There is no issuance of NBW at all in the present case or even warrant, for that matter. Clause 4(a) of the Office Memorandum, quoting the Delhi High Court, clearly envisages that there has to be a cognizable offence where the accused was deliberately evading arrest or not appearing in a Trial Court despite NBW and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest. None of the said criteria are met in the present case. On the contrary, Clause 6 of the Office Memorandum dated February 22, 2021 provides that the existing

¹³ 2025:DHC:8787

¹⁴ 2023 SCC OnLine Cal 2643

¹⁵ 2022 SCC OnLine Del 1893

¹⁶ 2021 SCC OnLine Del 2587

¹⁷ 2025 SCC OnLine Del 8280

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guidelines with regard to issuance of LOC were being superseded and it was decided as provided thereafter. The said consolidated guidelines, thus, are spelt out in Clause 6.”

42. *In Sumer Singh Salkan v. Asst. Director (supra), the Court has observed as under -*

“The questions raised in the reference are as under:

“A. What are the categories of cases in which the investigating agency can seek recourse of Look-out-Circular and under what circumstances?

B. What procedure is required to be followed by the investigating agency opening a Look-out-circular?

C. What is the remedy available to the person against whom such Lookout-Circular has been opened?

D. What is the role of the concerned Court when such a case is brought it and under what circumstances, the subordinate courts can intervene?

The questions are answered as under:

A. Recourse to LOC can be taken by investigating agency in cognizable offences under IPC or other penal laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest.

B. The Investigating Officer shall make a written request for LOC to the officer as notified by the circular of Ministry of Home Affairs, giving details & reasons for seeking LOC. The competent officer alone shall give directions for opening LOC by passing an order in this respect.

C. The person against whom LOC is issued must join investigation by appearing I.O. or should surrender the court concerned or should satisfy the court that LOC was wrongly issued against him. He may also approach the officer who ordered issuance of LOC & explain that LOC was wrongly issued against him. LOC can be withdrawn by the authority that issued and can also be rescinded by the trial court where case is pending or having jurisdiction over concerned police station on an application by the person concerned.

D. LOC is a coercive measure to make a person surrender to the investigating agency or Court of law. The subordinate courts' jurisdiction in affirming or cancelling LOC is commensurate with the jurisdiction of cancellation of NBWs or affirming NBWs.”

43. *In Brij Bhushan Kathuria v. Union of India, 2021 SCC OnLine Del 2587, this Court has made the following observation -*

“14.....An LOC has the effect of seriously jeopardising the right to travel of an individual. The settled legal position, as per the

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judgment in Sumer Singh Salkan (supra) is that unless and until there is an FIR which is lodged or a criminal case which is pending, an LOC cannot be issued.

xxx xxx xxx

18. It is clear from a perusal of clauses (g), (h) and (j) that unless and until the conditions in these clauses are satisfied, prima-facie an LOC cannot be opened.

19. There is no criminal case pending against the Petitioner. His role is also yet to be ascertained by the investigating authorities. Phrases such as 'economic interest' or 'larger public interest' cannot be expanded in a manner so as to include an Independent Director who was in the past associated with the company being investigated, without any specific role being attributed to him, as in the present case....."

44. *Similarly in Ashutosh Sharma v. Union Of India., W.P. (C) 7769 of 2022, the Court has observed as under -*

"6. It is also to be noted that there are no complaint/criminal proceedings pending against the Petitioner.

7. Since 30th November 2019, the Impugned LOC against the Petitioner has been in place. The rationale behind issuing the instant LOC is to effectively monitor the entry or exit of the Petitioner from the country.

8. However, there is no material placed before the Court which can ascertain the Petitioner's liability or criminal culpability at this juncture which could indicate that he is intending to abscond. Therefore, the mere apprehension of default cannot be a basis for opening an indefinite LOC against him, thereby restricting the movement of a citizen who has a right to travel abroad which is acknowledged to be a fundamental right under Article 21 of the Constitution of India, as observed in the landmark judgments of Maneka Gandhi v. Union of India and Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer.

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12. The above makes it clear that only in exceptional cases can a LOC be issued without fulfilling the parameters. This is because a person's right to travel freely is an expression of their fundamental right to personal liberty enshrined under Article 21 of the Constitution. Therefore, such a right can only be restricted under strict parameters and in accordance with the procedure established by law."

45. *Reference is also apposite to Hulas Rahul Gupta v. Bureau of Immigration (supra), wherein the Court has observed as under -*

18. The abovementioned guidelines show that the ordinary recourse to open LOCs is to be taken in cognizable offence under IPC and other penal laws. However, in exceptional

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circumstances, LOCs can be opened in such cases which are not covered by the guidelines if it is felt that the person concerned if leaves the country would be against the economic interest of the country.

19. It is now a settled law that opening of an LOC has a very serious effect on a person's fundamental right to travel abroad which is on the face of Article 21 of the Constitution of India and the said right to travel cannot be curtailed without following due process. It is also settled law that recourse to LOC can be taken by the Investigating Agencies primarily when there is a cognizable offence under IPC or in any other penal laws or where the accused is deliberately evading the arrest and not appearing before Court despite summons being served on him or issuance of non-bailable warrants or when other coercive measures have been taken by the Court to ensure his appearance in the Court and that there is likelihood of the accused to leave the country to evade such trial or arrest.

20. The LOCs are also being issued at the instance of Investigating Agencies where apprehension is raised by the Investigating Agencies that the person who is alleged of committing an offence might escape the clutches of law by leaving the country. However, the law is also getting crystallized that merely because there are some revenue implications, the LOC cannot be opened against a person. A Single Bench of this Court in Priya Parameswaran Pillai v. Union of India, [2015 VII AD (Delhi) 10] has held that merely because there were some revenue implications due to notices issued by the Income Tax Authorities, the violations of tax laws are not demonstrative of the fact that the Petitioner therein had acted inimical to the economic interests of the country.

27. Recently, this Court in **Anant Raj Kannoria, Vineet Gupta v. Union of India & Ors**¹⁸, **Maria Ramesh V. Union of India & Ors**¹⁹ and **Ritwick Dutta v. Union of India & Ors**²⁰ has also examined the various aspects of the legal framework governing the issuance of LOC. In **Anant Raj Kannoria**, this Court has held that the mechanical continuation of a LOC, in the absence of any necessity for the petitioner's participation in the

¹⁸ W.P.(C) 15701/2022 dt 22.01.2026

¹⁹ W.P.(C) 15701/2022 dt. 27.01.2026

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investigation, renders such restraint *prima facie* arbitrary, particularly where the petitioner has neither evaded the process of law nor exhibited any intent to obstruct the investigation. The Court further observed that repeated invocation of the writ jurisdiction for interim reliefs in such matters places an avoidable burden on judicial time, which could otherwise be devoted to cases involving substantive rights and pressing questions of law.

28. On the conspectus of the aforementioned decisions and memorandum, it is seen that the following guiding principles emerge governing the issuance, continuance, and judicial review of LOC:

- (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;
- (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 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

²⁰ W.P.(C) 12862/2023 dt. 02.02.2026



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.

29. On the anvil of the aforesaid discussion, there does not seem to be any justification to continue the existence of the LOC(s) in the instant case. Accordingly, LOC(s) is quashed with the following directions:

- i. The petitioners to submit an undertaking before the Special Judge, PMLA Court, Chandigarh and the Special Judge, CBI Court, Chandigarh, affirming that they shall continue to cooperate with the investigation, if any, and they shall appear before the concerned trial Court as and when required, rendering full cooperation in the early disposal of trial.
- ii. Henceforth, they shall undertake abroad journey with the prior permission is obtained from the competent Courts, where the trial is pending.



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

PURUSHAINdra KUMAR KAURAV, J
FEBRUARY 10, 2026/p/mj.

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