



2026:DHC:2338



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment pronounced on: 20.03.2026+ W.P.(C) 5316/2021 and CM APPLs.16378/2021, 11500/2025, 43289/2025

DR PRANNOY ROY & ANR.

..... Petitioners

Through: Mr. Manu Sharma, Sr. Advocate along with Ms. Anuradha Dutt, Mr. Pawan Sharma, Ms. Suman Yadav, Mr. Kunal Dutt, Mr. Abyuday Sharma, Mr. Saurabh Singh and Mr. Nishant Varun, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Amit Tiwari, CGSC along with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal and Mr. Kushagra Malik, Advocates for UOI.

Mr. Anupam S. Sharma, SPP along with Mr. Prakarsh Airan, Ms. Harpreet Kalsi, Mr. Ripudaman Sharma, Mr. Vashisht Rao, Ms. Riya Sachdeva, Mr. Anant Mishra and Mr. Syamantak Modgil, Advocates for CBI.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The petitioners have filed the present petition, inter alia, challenging the Look Out Circular ("LOC") issued against them at the instance of respondent no. 2, pursuant to which the petitioners were prevented from travelling abroad on 09.08.2019 at Mumbai International Airport.



2026:DHC:2338



2. The factual backdrop in which the present petition has been filed is that on 02.06.2017, a First Information Report bearing No. RC-21720170009/CBI/ACU-V/AC-II/New Delhi was registered by the Central Bureau of Investigation (CBI) for the alleged commission of offences punishable under Sections 120-B read with 420 of the Indian Penal Code, 1860 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 against M/s RRPR Holding Pvt. Ltd., Prannoy Roy, Radhika Roy, certain unknown officials of ICICI Bank, M/s NDTV Ltd., and other unknown persons. The FIR was registered on the basis of a written complaint submitted by Sh. Sanjay Dutt of M/s Quantum Securities Pvt. Ltd., New Delhi.

3. In connection with the aforesaid FIR/RC, a Look Out Circular was issued against the petitioners by the Bureau of Immigration (BOI) with effect from 20.06.2019 for a period of one year at the request of respondent no. 2 – CBI. Upon completion of the investigation in the said FIR, a closure report came to be filed before the concerned court, which was subsequently accepted by the Court.

4. Thereafter, on 19.08.2019, another case bearing RC2172019A0005 /CBI/ACU-V/AC-II/New Delhi was registered by respondent no. 2 – CBI for the alleged commission of offences punishable under Sections 120-B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act against Prannoy Roy, Promoter and Director of M/s NDTV Ltd.; Radhika Roy, Promoter and Director of M/s NDTV Ltd.; Sh. Vikramaditya Chandra, CEO and Director of NDTV Ltd.; M/s NDTV Ltd.; and certain unknown public servants and other persons.

5. In connection with the aforesaid RC, a Look Out Circular was issued



against the petitioners by the Bureau of Immigration with effect from 11.01.2021 at the request of respondent no. 2 – CBI.

6. Being aggrieved of the said LOC/s the petitioners have filed the present petition.

7. *Vide* order dated 20.01.2023, this Court directed the respondents to file a specific affidavit indicating whether the LOCs issued against the petitioners continued to remain valid. The relevant portion of the said order reads as under:

“4. Ld. Counsel for the Respondents shall file a specific affidavit stating whether the LOC issued against the Petitioners is still valid or not.”

8. Pursuant thereto, an affidavit came to be filed on behalf of respondent no. 2 – CBI stating that the LOC issued against the petitioners continue to remain valid. The relevant portion of the affidavit dated 26.04.2023 filed by respondent no. 2 – CBI is reproduced as under –

“AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.2-CBI

The present affidavit is being filed in compliance of the order dated 20.01.2023. Averments made in the reply dated 11.06.2021 and 27.05.2022 filed on behalf of Respondent no.2-CBI are not being repeated herewith for the sake of brevity and may kindly be read as part and parcel of the present affidavit as well.

1. That the Look-out circular issued against Petitioners i.e. Dr. Prannoy Lal Roy and Ms. Radhika Roy in CBI case RC no. 5(A)/2019/ACU-V/AC-II/New Delhi are still valid.

2. The issuance of a Look-out circular is minimum restraint that can be exercised by an investigating agency. The LOC was issued by Respondent-CBI against the Petitioners by virtue of various OMs issued by the Government of India from time to time in accordance with law.”

9. Upon perusal of the said affidavit, this Court passed the following order on 28.04.2023:

“2. The affidavit on behalf of the CBI states that the LOCs issued against the Petitioners are still valid.

3. Ld. counsel for the Respondents seek adjournment on the ground



that Mr. Anupam Sharma, the main counsel is held up in another Court.

4. List on 11th May, 2023.

5. Let the record of the Respondents reflecting the continuation of the LOCs be placed on record on the next date of hearing.”

10. Subsequently, the Bureau of Immigration (BOI) filed an affidavit dated 06.05.2023 stating as under:

*“4. It is submitted that LOC issued against both- Prannoy Lal Roy and Radhika Roy at the behest of Superintendent of Police, CBI, ACU-IV, CGO Complex, Lodhi Road, New Delhi-110003 vide their reference no. 130 5 (A) 2019-ACU-V/New Delhi dated 11.01.2021 with the action "Prevent subject from leaving India and inform originator" is **presently valid**.*

5. It is submitted that the originator has last requested to continue the above mentioned LOCs vide their reference dated 17.01.2022.

6. It is further submitted that as per MHA LOC guidelines dated 22.02.2021, Para 6(J), the LOC opened shall remain in force until and unless a deletion request is received by BOI from the originator itself. No LOC shall be deleted automatically.

7. It is submitted that, till date no deletion request has been received from the originator by BOI or any direction has been ordered by a competent criminal court to delete the concerned LOC. BOI has no objection to delete or modify the LOC, incase the LOC originator request so, or a competent criminal court directs so.”

11. The aforesaid affidavit was perused by this Court and on 11.05.2023 the following order came to be passed -

“2. An affidavit has been filed by the Respondent to the following effect:

*“4. It is submitted that LOC issued against both- Prannoy Lal Roy and Radhika Roy at the behest of Superintendent of Police, CBI, ACU-IV, CGO Complex, Lodhi Road, New Delhi-110003 vide their reference no. 130 5 (A) 2019-ACU-V/New Delhi dated 11.01.2021 with the action "Prevent subject from leaving India and inform originator" is **presently valid**.*

5. It is submitted that the originator has last requested to continue the above mentioned LOCs vide their reference dated 17.01.2022.



6. It is further submitted that as per MHA LOC guidelines dated 22.02.2021, Para 6(J), the LOC opened shall remain in force until and unless a deletion request is received by BOI from the originator itself. No LOC shall be deleted automatically.

7. It is submitted that, till date no deletion request has been received from the originator by BOI or any direction has been ordered by a competent court to delete the concerned LOC. BOI has no objection to delete or modify the LOC, incase the LOC originator request so, or a competent criminal court directs so.”

3. It is submitted on behalf of the Petitioners that the case of the Petitioners would not be covered by the office memorandum dated 22nd February, 2021 (OM) inasmuch as the LOC against the Petitioners was issued on 11th January, 2021 and its validity was only for a period of one year in terms of the relevant information and instructions Clause 4 of the OM which reads as under:

“4. All the LOCs (other than those specifically mentioned in para 6(J) of the consolidated guidelines), which have completed one year, would automatically lapse after a year of opening unless reviewed and recommended for retention by the originator. It is the responsibility of the originator to constantly review the LOC requests and proactively provide additional parameters to minimize harassment to genuine passengers.”

4. On behalf of the Respondents, Mr. Sharma, ld. Counsel for the CBI submits that the present LOC is governed by Clause 6(J) of the OM and the originator of the LOC has asked for the continuation of the LOC on 17th January, 2022. The Clause 6(J) is as under:

“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 supersession of all the existing guidelines issued vide this Ministry's letters / O.M. referred to in para I 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:

(J) The LOC opened shall remain in force until and unless



a deletion request is received by Bol from the Originator itself. No LOC shall be deleted automatically. Originating Agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC, if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the Originating Agency or by Competent Court, the LOC deletion request must be conveyed to Bol immediately so that liberty of the individual is not jeopardised.”

5. A perusal of Clauses 4 and 6(J) which are extracted above would show that there is confusion inasmuch as a prima facie view of the two clauses would show that on the one hand in Clause 4, every LOC would be valid only for a period of one year and would automatically lapse. However, Clause 6(J) stipulates exactly the opposite that it would remain in force unless and until deletion request is received. Let the Bureau of Immigration/Union of India clarify the above by means of a specific affidavit.

6. The files as directed in terms of the previous order shall also be produced on the next date of hearing. The relevant portion of the said order dated 28th April, 2023 is set out herein below for the sake of ready reference:

- “1. This hearing has been done through hybrid mode.*
- 2. The affidavit on behalf of the CBI states that the LOCs issued against the Petitioners are still valid.*
- 3. Ld. counsel for the Respondents seek adjournment on the ground that Mr. Anupam Sharma, the main counsel is held up in another Court.*
- 4. List on 11th May, 2023.*
- 5. Let the record of the Respondents reflecting the continuation of the LOCs be placed on record on the next date of hearing.”*

12. Subsequently, in compliance with the directions contained in paragraph 5 of the order dated 11.05.2023, BOI filed an affidavit dated 19.08.2023, stating as under –

“1. It is submitted that Clause 4 or Para 4 of Proforma For submitting request for Issue of Look Out Circular read as "All the LOCs, which



have completed one year, would automatically lapse after a year of opening, unless reviewed for retention by the originator. It is the responsibility of the originator to constantly review the LOCs requests and proactively provide additional parameters to minimize harassment to genuine passengers" under the heading "Relevant Information And Instructions" of LOC Proforma has been replaced vide MHA CORRIGENDUM No. 25016/10/2017-Imm (Pt.) dated 10.08.2021.

2. It is submitted that Clause 4 of LOC proforma after above mentioned MHA CORRIGENDUM may be read as "The LOC opened shall remain in force until and unless a deletion request is received by BOI from originator itself. NO LOC shall be deleted automatically. Originating agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC, if any, immediately after such review. The BOI should contact the LOCs Originators through normal channels as well as through online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the Originating Agency or by a Competent Court, the LOC deletion request must be conveyed to BOI to immediately so that liberty of the individual is not jeopardized."

3. It is submitted that now Clause 4 under the heading "Relevant Information And Instructions" of LOC Proforma is same as Para 6 (J) of MHA LOC Guideline vide OM No. 25016/ 10/2017-Imm (Pt) dated 22.02.2021.

4. It is submitted MHA CORRIGENDUM No.25016/ 10/2017-Imm (Pt.) dated 10.08.2021 is a "Secret" document. In case Honorable court directs to produce the MHA CORRIGENDUM before it, it will be produced in a sealed cover."

13. Thereafter, by way of order dated 03.01.2024, this Court issued further directions to the respondents as under -

"Respondents are directed to file a Status Report showing the stage of investigation and also as to by when the chargesheet will be filed."

14. In compliance with the said directions, Respondent No. 2 – CBI filed an affidavit dated 19.01.2024 stating as follows -

"1. That in compliance to the order dated 03.01.2024 passed by this Hon'ble Court directing the Respondent to file a Status Report showing the stage of investigation and also as to by when the chargesheet will be filed, it is submitted that in the present matter, as per allegation of FIR, M/s NDTV floated around 32 subsidiary firms all over the world, mostly in tax haven countries. Majorities of these companies had no business transaction and they were meant only for



financial transaction to bring funds from abroad. These transactions are sham transactions and the said funds are invested by unknown Public Servants through NDTV Ltd and later laundered back to India through multiple layers of complex transactions and shell companies.

As such, the present matter has national and international ramifications. Documents are required to be collected from various foreign jurisdictions to ascertain the original source of foreign investments received by NDTV's subsidiaries, verifying the utilization of funds received from foreign investments by collecting supporting documents related to utilization of funds and identifying the unknown public servants whose funds were invested through NDTV Ltd.

2. That Letter Rogatories (LRs) have been sent to UK, USA, Netherlands & Mauritius with permission of Ld. Trial Court for collecting documents related to original source of foreign investments received by NDTV's subsidiaries, verifying the utilization of funds received from foreign investments etc.

3. That in response to the LR sent to United States, the US Department of Justice had asked for furnishing additional information relating to the case which has been furnished to Ministry of Home Affairs for onward transmission to US Department of Justice.

4. That, no response has been received from UK, Netherlands & Mauritius so far.

5. That execution of LRs is still awaited and as such, the investigation is still underway and the chargesheet would be filed in due course.”

15. Thereafter, by order dated 27.01.2025, this Court passed the following directions:

“1. It is noticed that as far back as 28.04.2023, this Court specifically directed the respondents to file the record reflecting the continuation of the LOCs issued against the petitioner. Let the same be filed on affidavit, within a period of two weeks from today. The affidavit shall also deal with the seeming dichotomy between Clause 4 and Clause 6(J) of the Office Memorandum (OM) dated 22.02.2021. It shall also specifically disclose whether the originating agency has ever reviewed the LOC that was initially opened against



2026:DHC:2338



the petitioners and whether any proposal/s pursuant thereto was submitted after such review.

2. List on 18.02.2025.

3. Let the relevant records be also produced by the respondents on the next date of hearing.”

16. In compliance with the same BOI filed an affidavit dated 17.02.2025, stating as under –

“1. That I am fully acquainted with the facts and circumstances of the instant case and I have gone through the relevant records. Additionally, being fully authorized, I have the authority and competence to submit and verify the present Counter Affidavit on behalf of the answering Respondent.

2. That this Hon’ble Court vide its order dated 27.01.2025 had ordered that:

“1. It is noticed that as far back as 28.04.2023, this Court specifically directed the respondents to file the record reflecting the continuation of the LOCs issued against the petitioner. Let the same be filed on affidavit, within a period of two weeks from today. The affidavit shall also deal with the seeming dichotomy between Clause 4 and Clause 6(J) of the Office Memorandum (OM) dated 22.02.2021. It shall also specifically disclose whether the originating agency has ever reviewed the LOC that was initially opened against the petitioners and whether any proposal/s pursuant thereto was submitted after such review.”

3. That the instant Short Affidavit is being filed in compliance of the directions passed by this Hon'ble Court vide the aforementioned order dated 27.01.2025.

4. That it must be noted that the Clause 4 of the proforma of the OM dated 22.02.2021 under the heading "Relevant Information and Instructions" reads as under:

"4. All LOCs, which have completed one year, would automatically lapse after one year of opening, unless reviewed and recommended for retention by the originator. It is the responsibility of the originator to constantly review



the LOC requests and proactively provide additional parameters to minimize harassment to genuine passengers"

5. That it must also be noted that Clause 6(J) of the same OM dated 22.02.2021 reads as under:

“(J) The LOC opened shall remain in force until and unless a deletion request is received by Bol from the Originator itself. No LOC shall be deleted automatically. Originating Agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the Originating Agency or by Competent Court, the LOC deletion request must be conveyed to Bol immediately so that liberty of the individual is not jeopardized.”

6. That it is apposite to mention that MHA's OM dated 22.02.2021 is consolidated guideline of all former guidelines related to the subject. It must be noted that this guideline also supersedes all other guidelines related to LOC in the past. However, proforma attached with consolidated MHA OM dated 22.02.2021 was mistakenly old proforma which had Clause 4. It is submitted that the Clause 4 of the proforma was clearly not in conformity with Clause 6(J) of the OM dated 22.02.2021.

7. That it is submitted that this dichotomy between Clause 6(J) and Clause 4 of the proforma was later corrected by virtue of the Corrigendum No. 25016/10/2017-1mm.(Pt.) dated 10.08.2021. It is submitted that the aforementioned Corrigendum is a secret document, however, same can be produced before this Hon'ble Court in a sealed cover if this Hon'ble Court directs. It must be noted that this correction replaced the earlier Clause 4 of the proforma which now reads as under:

“The LOC opened shall remain in force until and unless a deletion request is received by BOI from the originator itself. NO LOC shall be deleted automatically. Originating agency must keep reviewing the LOC opened at its behest on quarterly and annual basis and submit the proposal to delete the LOC, if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been



opened is no longer wanted by Originating Agency or by Competent Court, the LOC deletion request must be conveyed to BOI immediately so that liberty of individual is not jeopardized”

8. *That it is categorically highlighted that the aforementioned Circular, Proforma and Corrigendum is circulated among competent originating agencies to avoid any confusion among them.*

9. *That further, with respect to the LOC of the Petitioner in the instant case, it is submitted that originating agency, CBI, requested for opening of LOC vide Letter, bearing No. CBI ID No.1350(A)/2019-ACU-V/New Delhi, dated 17.01.2022. It is submitted that CBI further requested the answering Respondent, Bol, to renew the LOC via their Letter, bearing No.RC-5(A)/2019-ACU-V/New Delhi, dated 17.01.2022 for further period. Further, it is most respectfully submitted that records pertaining to periodic review of LOC lies with originating agency and this Hon'ble Court may, if it deems fit, direct the originator of the LOC to produce such records.”*

Submissions on behalf of the petitioners

17. Learned Counsel for the petitioners has made the following submissions -

- a. The First RC/FIR bearing No. 2172017A0009 (ACU-V) was registered on 02.06.2017 on the complaint of Mr. Sanjay Dutt. During the pendency of the said FIR, the first LOC was issued on 20.06.2019 for a period of one year, valid till 19.06.2020. It is submitted that no extension of the said LOC was sought by the CBI.
- b. Subsequently, it is emphasised that the CBI filed a Closure Report in the aforesaid FIR, which came to be accepted by the Learned Trial Court vide order dated 23.01.2025.
- c. As regards the Second RC/FIR bearing No. 2172019A0005 dated 19.08.2019, it is submitted that the petitioners were called to join



2026:DHC:2338



enquiry vide letter dated 11.01.2019 to appear on 14.01.2019 and 11.02.2019, i.e., prior to registration of the FIR. It is pointed that the petitioners duly joined the enquiry.

- d. It is submitted that after registration of the Second FIR, the petitioners have never been summoned by the respondent no. 2.
- e. It is further emphasised that even as per the CBI, the execution of Letters Rogatory is awaited and investigation is stated to be “underway.” Despite lapse of more than five and a half years, no chargesheet or final report has been filed against the petitioners.
- f. Reliance has been placed on *Thilakasri Krepanand v. Union of India & Ors.*; W.P. (Crl) No. 566/2023 and *Shri Sathish Babu Sana v. Central Bureau of Investigation*; W.P (Crl) No. 249/2019.
- g. It is submitted that the second LOC was opened on 11.01.2021, nearly six months after lapse of the first LOC on 19.06.2020. The second LOC was valid for one year and expired on 10.01.2022.
- h. It is emphasised that as per the BoI affidavit dated 06.05.2023, renewal was “last requested” on 17.01.2022, i.e., after expiry of the LOC on 10.01.2022. An expired LOC cannot be renewed; only a fresh LOC may be issued upon fresh satisfaction.
- i. It is submitted that on 22.02.2021 A New OM No. 25016/10/2017-Imm (Pt.) was issued by the Ministry of Home Affairs FRRO Division. Under the new OM, the LOC shall remain in force till there is a deletion request from the originator received by the BOI



2026:DHC:2338



(Para 6J). The case of the petitioner is that this OM has no bearing/retrospective applicability on the 2nd LOC opened by the CBI, prior to issuance of the OM dated 22.02.2021. Therefore, neither the OM dated 22.02.2021 nor the corrigendum dated 10.08.2021 can revive or validate an LOC issued prior thereto.

- j. It is submitted that as per BoI reply, in accordance with corrigendum dated 10.08.2021, no LOC is deleted automatically. However, the case of the petitioner is that neither the corrigendum dated 10.08.2021 nor the OM dated 22.02.2021 are applicable, as the LOC was issued on 11th of January 2021 under the OM of 2010 (before the OM dated 22.02.2021) came into effect.
- k. It is contended that neither the OM nor the corrigendum indicate any intent for the same to apply retrospectively. OM dated 22.02.2021 clearly states at Para 6 that: “... 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”
- l. It is submitted that the OM and its corrigendum are executive instructions without any statutory basis and cannot apply retrospectively as they are not law. Reliance has been placed on ***BSNL vs. Tata Communications***, 2022 SCC OnLine 1280.
- m. It is further submitted that the judgments relied upon by the CBI are clearly distinguishable, as they pertain to cases where summons were not complied with, NBWs were issued, or the



2026:DHC:2338



accused persons were not cooperating. In the present case, there is no such allegation. It is submitted that in ***Rahul Dilip Shah versus Union of India and Anr***, W.P(C) 13790/2023, this Court held that LOC cannot be extended endlessly as it seriously impedes the right of a person to travel abroad under Article 21 of the Constitution of India.

- n. It is contended that the petitioners have cooperated at every stage. They appeared before the Investigating Officer on 14.01.2019 and 11.02.2019 pursuant to summons issued at the stage of enquiry. Thereafter, no summons have been issued. There is no material placed on record to suggest non-cooperation or any attempt to evade legal proceedings.
- o. Further, it is submitted that there are no allegations that the petitioners ever absconded and did not participate in the criminal proceedings. Reliance has been placed on ***Lakshmi Satyanarayana Dutt Tadikonda v. Union of India***; W.P (CrI.) No. 343/2020.
- p. It is also emphasised that vide order dated 01.06.2022 passed in the present proceedings, this Court observed that the respondents had not placed any material to indicate that the petitioners constitute a flight risk and that there was lack of cooperation in investigation.
- q. It is pointed that pursuant to the filing of the present writ petition, the petitioners have been permitted to travel abroad on multiple occasions and on each occasion they have returned to India.



2026:DHC:2338



- r. Further reliance has been placed on *Sumer Singh Salkan v. Asstt. Director*, 2010 SCC OnLine Del 2699, *Sathish Babu Sana v. Central Bureau of Investigation*; W.P (Crl) No. 249/2019; *Mushtaq Ahmed v. The Deputy Commissioner of Police*; Crl OP 17- 81/2017, *Karti P. Chidambaram v. Bureau of Immigration*; 2018 SCC Online Mad 2229, *Deept Sarup Aggarwal v. Union of India & Anr*; W.P (C) No. 5382/2020, *Lakshmi Satyanarayana Dutt Tadikonda v. Union of India*; W.P (Crl.) No. 343/2020 and *Priya Parmeswaran Pillai v. Union of India*; 2015 SCC Online Del 7987.
- s. It is further submitted that between 19.06.2020 and 11.01.2021, there was admittedly no LOC in force. During this six-month period, the petitioners were not treated as flight risks. The second LOC was issued without any change in circumstance.
- t. It is also submitted that the petitioners have never been supplied a copy of the LOC nor informed of the basis for its issuance or alleged renewal.
- u. The right to travel abroad forms an integral part of Article 21. The initial purpose of the LOC was to secure presence during investigation which stands exhausted. The petitioners have not been summoned since February 2019, no chargesheet has been filed for over five years, and the petitioners have consistently returned to India whenever permitted to travel.

Submissions on behalf of the respondent no. 2 (CBI)

18. Learned Counsel for the respondent no. 2 has made the following



2026:DHC:2338



submissions –

- a. It is submitted that RC No. 2172017A0009/CBI/ACU-V/AC-II/New Delhi was registered by Respondent No. 2 on 02.06.2017 against the petitioners. It is submitted that a Look Out Circular (LOC) was issued against the petitioners on 20.06.2019 due to apprehension of flight risk. Upon completion of investigation, a closure report was filed before the competent Court, which has been accepted.
- b. Subsequently, on 19.08.2019, RC No. 2172019A0005/CBI/ACU-V/AC-II/New Delhi was registered against the petitioners, along with other accused persons, for offences under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act. It is submitted It was mentioned in the FIR/RC that during the period May 2004 to May 2010, NDTV Ltd. floated approximately 32 subsidiary firms across various jurisdictions, including tax havens such as the UK, Holland, Dubai, Malaysia and Mauritius, allegedly for the purpose of routing funds from abroad. It is alleged that tainted funds of unknown public servants were invested through these subsidiaries and later laundered back into India through complex financial transactions and shell companies. M/s NNPLC, London, allegedly obtained FIPB approval in violation of applicable FDI provisions and received FDI amounting to USD 163.43 million till September 2009, which was subsequently routed through NDTV subsidiaries. It is submitted that the investigation is at a crucial stage.



2026:DHC:2338



- c. It is contended that view of the gravity of allegations and apprehension that the petitioners may flee the country or tamper with evidence located outside India, an LOC was issued against them with effect from 11.01.2021 at the request of respondent No. 2. It is submitted that the same continues to remain in force.
- d. The issuance of LOC was in accordance with the Office Memorandums issued by the Government of India and the law laid down in *Sumer Singh Salkan v. Assistant Director* (supra).
- e. It is submitted that the LOC has been issued strictly in accordance with law and does not violate any fundamental right of the Petitioners. Article 21 of the Constitution does not protect an individual from lawful investigation into cognizable offences. The Hon'ble Supreme Court in Justice *K.S. Puttaswamy (Retd.) v. Union of India*, AIR 2017 SC 4161 has recognized prevention and investigation of crime and protection of revenue as legitimate aims of the State.
- f. It is further submitted that Letters Rogatory have been issued, with the permission of the learned Trial Court, to authorities in the United Kingdom, United States of America, Netherlands and Mauritius for collection of documents relating to the source of foreign investments, and verifying the utilization of funds, etc. The U.S. Department of Justice has sought additional information, which has been furnished through the Ministry of Home Affairs. Authorities in the UK have taken up the matter with the Metropolitan Police and the City of London Police. Regular



2026:DHC:2338



follow-up is being conducted through Interpol. Execution of the Letters Rogatory is awaited and investigation is ongoing.

- g. The present case involves serious allegations of white-collar economic offences. Such offences, by their very nature, require extensive international investigation which is a time-consuming process.
- h. It is submitted that the allegations against petitioners falls under category of economic offences. Reliance has been placed on *Nimmagadda Prasad v. Central Bureau of Investigation* AIR 2013 SC 2821.
- i. It is submitted that the LOC is the least coercive measure adopted to ensure their presence and cooperation.
- j. It is further pointed that besides the above-two criminal cases registered by respondent no.2 against petitioners, SEBI had also barred them for two years and ITAT had dismissed their appeal.
- k. Reliance is also placed on *Rahul Dilip Shah v Union of India & Anr.* 2024:DHC:82, *Pawanjot Kaur Sawhney v Bureau of Immigration & Anr.* 2023:DHC:5938, *Ghanshyam Pandey v Union of India & Anr.* WP(C) 3545/2022.
- l. It is further submitted that the pendency of the LOC causes no undue prejudice to the petitioners. They have been permitted to travel abroad after obtaining permission from this Court. The LOC merely ensures monitoring of their movements and safeguards the



2026:DHC:2338



ongoing investigation. In the absence of LOC, there would remain no effective mechanism to prevent absconding, thereby frustrating the due process of law.

- m. It is further the case of the respondent that as per Consolidated Guideline No. 6(H) issued vide Office Memorandum dated 22.02.2021 by the Ministry of Home Affairs, recourse to a Look Out Circular (LOC) may be taken in cognizable offences under the IPC or other penal laws, provided that the details in Column IV of the prescribed proforma, indicating the “reason for opening LOC,” are invariably furnished. The proforma for issuance of LOC requires only the FIR number, relevant penal provisions, police station etc. Therefore, once a cognizable offence is registered, the investigating agency is legally justified in opening an LOC, subject to compliance with the prescribed procedure.
- n. It is further the case of the respondent no. 2 that judicial review is confined to examining the decision-making process and not the correctness or sufficiency of the decision itself. In this regard, reliance is placed upon *Pawanjot Kaur Sawhney v. Bureau of Immigration & Anr.* 2023:DHC:5936, *Rahul Dilip Shah vs. Union of India*, 2024:DHC:82, *C. Sivasankaran v. Foreigner Regional Registration Officer & Ors.* AIR Online 2019 Mad 1047 and *Bavaguthuraghuram Shetty vs Bureau of Immigration Ministry of Home Affairs, Government of India and Ors.*, 2021 SCC Online Kar 14863.



2026:DHC:2338



- o. It has further been submitted that the Constitution Bench of the Supreme Court in *Abdul Rehman Antulay v. R.S. Nayak* AIR 1992 SC 1701, held that speedy trial encompasses investigation as well, however, the Supreme Court refused to fix time limit for trial of offences. It was also observed that economic offences jeopardizes the economy of the country and there should be no interference in such cases. It is further emphasised that the Supreme Court held that prejudice caused to an accused has to be shown.
- p. It is submitted that the judgement of *Abdul Rehman Antulay (supra)* was further considered by the Constitution Bench in *P. Ramachandra Rao v. State of Karnataka* AIR 2002 SC 1856 wherein the principle laid down in *Abdul Rehman Antulay (supra)* was confirmed, while relying upon another Constitution Bench judgement of *Kartar Singh vs. State of Punjab* (1994) 3 SCC 569.
- q. In the present case, it is submitted that except for ongoing delay there is no reason for prejudice against petitioners.
- r. It is submitted that the prejudice must be specifically pleaded, as held in *State of Karnataka v. Kuppaswamy Gownder* AIR 1987 SC 1354. However, the same has not be done by the petitioners in the present case.
- s. It is further submitted that this Court in *M/S KRBL LTD v. CBI and Anr.* AIR Online 2022 Del 258, refused to interfere on the



2026:DHC:2338



ground of delay in investigation and observed that the delay was due to execution of LR's which had national and international complications.

- t. It is contended that it would be in economic interest of India and larger public interest that the Petitioners departure ought to be tracked since the investigation is pending in various countries.
- u. It is further submitted that during the pendency of investigation, an LOC ought not to be quashed. Reliance has been placed on *Ghanshyam Pandey v. Union of India*, 2023:DHC:1114, *Pawanjot Kaur Sawhney* (supra), *Rahul Dilip Shah* (supra), *C. Sivasankaran* (supra), *Bavaguthuraghuram* (supra) and *C. Sivasankaran v. Foreigner Regional Registration Officer and others* 2020 SCC Online Mad 2656.
- v. The allegations against the Petitioners are grave and involve complex international financial transactions. One such instance pertains to an agreement dated 23.05.2008 between NDTV Networks International BV and Universal Studios International BV for purchase of shares worth USD 150 million (approximately ₹643 crores at ₹7015 per share). Subsequently, by agreement dated 14.10.2009, the shares were repurchased by NDTV Network International BV at ₹634 per share (approximately ₹58.08 crores). The source of funds for Universal Studios International BV was Bermudas and the subsidiary company was not a listed company. A company which had invested ₹643 Crores and had acquired 31.4% of equity was not paid dividend of single rupee while the



2026:DHC:2338



investee company which had only paid ₹12 lacs was paid dividend of ₹643.43 Crores. The investee company i.e., NDTV Networks International BV did not have any tangible assets or business and was also not a listed company. The Board of Directors across subsidiaries was same, no proper valuation or due diligence appears to have been conducted, and the drastic fluctuation in share valuation remains unexplained. These aspects are reflected in the findings recorded by the Income Tax Appellate Tribunal in the order relied upon by the Petitioners themselves.

w. It is further submitted that material on record indicates a propensity on the part of the petitioners to influence or misguide the investigation. In such circumstances, the LOC serves as a minimal and preventive measure to ensure cooperation and prevent obstruction of justice.

Analysis and Conclusion

19. The purpose of an LOC is to restrict an individual from leaving India where there exists a reasonable apprehension that such departure may adversely affect or obstruct the legal proceedings pending in India. However, the issuance or continued operation of an LOC cannot be permitted to operate in a manner that infringes the fundamental right to personal liberty guaranteed under the Constitution of India.

20. The right to travel abroad has been recognised as an integral facet of the right to life and personal liberty under Article 21 of the Constitution of India. This principle was firmly established by the Supreme Court in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, wherein it was held



that any restriction on personal liberty must be just, fair, and reasonable, and must satisfy the test of proportionality.

21. Before examining the factual conspectus of the present case, it would be apposite to consider the relevant Office Memorandums issued by the Ministry of Home Affairs governing the issuance of Look Out Circulars.

22. The Ministry of Home Affairs issued a comprehensive Office Memorandum dated 27 October 2010, which laid down detailed guidelines for issuance of LOCs against both Indian citizens and foreigners. The relevant portion of the said OM is reproduced as under –

“8. In accordance with the order dated 26.7.2010 of the High Court of Delhi, the matter has been discussed with the concerned agencies and the following guidelines are hereby laid down regarding issuance of LOCs in respect of Indian citizens and foreigners:

xxx

xxx

xxx

f) The legal liability of the action taken by the immigration authorities in pursuance of the LOC rests with the originating agency.

g) 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.

h) 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.

i) The LOC will be valid for a period of one year from the date of issue and name of the subject shall be automatically removed from the LOC thereafter unless the concerned agency requests for its renewal within a period of one year. With effect from 1.1.2011, all LOCs with more than one year validity shall be deemed to have lapsed unless the agencies concerned specifically request BoI for continuation of the names in the LOC. However, this provision for automatic deletion after one year shall not be applicable in following cases:

a. Ban-entry LOCs issued for watching arrival of wanted persons(which have a specific duration);

b. loss of passport LOCs (which ordinarily continue till the validity of the document);

c. LOCs regarding impounding of passports;



- d. LOCs issued at behest of Courts and Interpol*
- j) In exceptional cases, LOCs can be issued without complete parameters and / or case details against CI suspects, terrorists, anti-national elements, etc in larger national interest.”*

23. The 2010 framework circumscribed the use of LOCs to cases involving cognizable offences under the Indian Penal Code or other penal statutes. In non-cognizable matters, the issuing agency could merely request intimation of the individual’s travel movements, but not seek detention or arrest.

24. The said Office Memorandum further stipulated that an LOC would ordinarily remain valid for a period of one year from the date of its issuance. Upon the expiry of the said period, the name of the subject was to be automatically deleted from the LOC unless the originating agency sought renewal within the prescribed time. Certain limited exceptions to this automatic deletion were also provided.

25. This regime was thereafter expanded through subsequent amendments. A major shift occurred with the amendment dated 5 December 2017, by the addition of the following clause:

“OFFICE MEMORANDUM

Sub : ‘Amendment in Circular dated 27.10.2010 for issuance of LOC in respect of Indian citizen and foreigners ‘- reg.

In connection to this Ministry OM No. 25016/31/2010-Imm dated 27.10.2010 and as approved by the competent authority, the following amendment is hereby issued:-

Amendment-

Read as:

In exceptional cases LOCs can be issued even in such cases as would 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) of the above-referred OM, 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 interest 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 to be permitted in the larger public interest at any given point in time’.

Instead of:

‘In exceptional cases LOCs can be issued without complete parameters and/or case details against CI suspects, terrorists, anti-national elements etc. in the larger national interest’.”

26. As per the Office Memorandum of December 5, 2017, detrimental to the “economic interests of India” was added as a ground for issuance of LOC.

27. Eventually, to consolidate the entire regime, the Ministry of Home Affairs issued a comprehensive Office Memorandum on 22 February 2021, which currently governs the field. Relevant clauses of the 2021 Memorandum are reproduced as under –

“6. The existing guidelines with regard to issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners have been reviewed by the Ministry. After due deliberations in consultation with various stakeholders and in supersession 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 and 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.

(J) The LOC opened shall remain in force until and unless a deletion request is received by BoI from the Originator itself. No LOC shall be deleted automatically. Originating Agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC, if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the Originating Agency or by Competent Court, the LOC deletion request must be conveyed to BoI immediately so that liberty of the individual is not jeopardized.

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.”

28. Clauses 8(g), 8(h), and 8(j) of the Office Memorandum dated 27.10.2010 now find their corresponding place in Clauses 6(H), 6(I), and 6(L), respectively, of the consolidated Office Memorandum dated 22.02.2021.

29. Further, clause 8(i) of the Office Memorandum dated 27.10.2010, has been modified and now finds place as clause 6(J) of the consolidated Office Memorandum dated 22.02.2021.

30. While clause 8(i) of the 2010 Office Memorandum provided that an LOC would remain valid for a period of one year from the date of its issuance and would automatically lapse thereafter unless renewed by the



originating agency, clause 6(J) of the consolidated Office Memorandum dated 22.02.2021 provides that an LOC shall remain in force until and unless a deletion request is received by the Bureau of Immigration from the originating agency itself.

31. As has been noticed earlier, this Court, vide order dated 11.05.2023, had observed that a prima facie reading of clause 4 under the heading “Relevant Information and Instructions” of the Office Memorandum dated 22.02.2021, along with clause 6(J) thereof, appeared to give rise to a certain degree of ambiguity. On the one hand, clause 4 suggested that an LOC would remain valid only for a period of one year and would automatically lapse thereafter, whereas clause 6(J) appeared to indicate that an LOC would continue to remain in force until a deletion request is received from the originating agency.

32. Clause 4 under the heading “Relevant Information and Instructions” is reproduced as under –

“4. All the LOCs [other than those specifically mentioned in para 6(J) of the consolidated guidelines], which have completed one year, would automatically lapse after a year of opening unless reviewed and recommended for retention by the originator. It is the responsibility of the originator to constantly review the LOC requests and proactively provide additional parameters to minimize harassment to genuine passengers.”

33. Clause 6 (J) is again reproduced as under-

“(J) The LOC opened shall remain in force until and unless a deletion request is received by BoI from the Originator itself. No LOC shall be deleted automatically. Originating Agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC, if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the Originating Agency or by Competent Court, the LOC deletion request must be conveyed to BoI immediately so that liberty of the individual is not jeopardized.”



34. However, it has since been brought to the notice of this Court that clause 4 of the said Office Memorandum has been subsequently amended by way of a corrigendum dated 10.08.2021, thereby clarifying the position. As per the said corrigendum, Clause 4 now reads as under -

“The LOC opened shall remain in force until and unless a deletion request is received by BOI from the originator itself. No LOC shall be deleted automatically. Originating agency must keep reviewing the LOC opened at its behest on quarterly and annual basis and submit the proposal to delete the LOC, if any, immediately after such a review. The BOI should contact the LOC Originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by Originating Agency or by Competent Court, the LOC deletion request must be conveyed to BOI immediately so that liberty of individual is not jeopardized”

35. In the backdrop of the aforesaid statutory and administrative framework, and upon consideration of the submissions advanced by learned counsel for the parties, this Court is now required to adjudicate upon the following issues:

- A. Whether the LOC dated 11.01.2021 issued against the petitioners continues to remain in subsistence; and
- B. If the answer to the aforesaid question is in the affirmative, whether the continued subsistence of the said LOC is legally sustainable in the facts and circumstances of the present case.

A. Whether the LOC dated 11.01.2021 issued against the petitioners continues to remain in subsistence ?

36. The petitioners contend that the LOC was issued on 11.01.2021 under the regime of the Office Memorandum dated 27.10.2010 and, therefore, the provisions of the subsequent Office Memorandum dated 22.02.2021 cannot



2026:DHC:2338



be applied to the said LOC. On this basis, it is submitted that the LOC dated 11.01.2021 stood expired upon completion of one year, i.e., on 10.01.2022, in terms of the validity clause contained in the Office Memorandum dated 27.10.2010.

37. It is further emphasised that, as per the affidavit filed by the Bureau of Immigration dated 06.05.2023, the renewal of the LOC was “last requested” on 17.01.2022, i.e., subsequent to the alleged expiry of the LOC on 10.01.2022. According to the petitioners, once an LOC has expired, it cannot be renewed retrospectively; rather, the concerned authority would be required to issue a fresh LOC.

38. The petitioners submit that although the Bureau of Immigration has stated that, in view of the Office Memorandum dated 22.02.2021 and the corrigendum dated 10.08.2021, LOCs are no longer subject to automatic deletion, the said provisions cannot be applied retrospectively to an LOC which was issued under the earlier regime of the Office Memorandum dated 27.10.2010. It is thus the case of the petitioners that neither the Office Memorandum dated 22.02.2021 nor the corrigendum dated 10.08.2021 would govern the LOC issued against them, as the same was issued on 11.01.2021, i.e., prior to the coming into force of the Office Memorandum dated 22.02.2021.

39. This Court, however, is unable to accept the aforesaid contention advanced on behalf of the petitioners. It is pertinent to note that although the LOC was issued on 11.01.2021 under the regime of the Office Memorandum dated 27.10.2010, the said LOC continued to remain in force at the time when the Office Memorandum dated 22.02.2021 came into effect. It is not the case of the petitioners that the LOC had ceased to exist



2026:DHC:2338



prior to the enforcement of the Office Memorandum dated 22.02.2021. Consequently, the provisions of the consolidated Office Memorandum dated 22.02.2021, along with the corrigendum issued thereafter, would be applicable to the LOC in question.

40. By virtue of the Office Memorandum dated 22.02.2021, the concept of automatic deletion of LOCs upon the expiry of one year no longer survives, and an LOC is now to remain in force until and unless a deletion request is received by the Bureau of Immigration from the originating agency. In the present case, the consistent stand of the respondents has been that the LOC issued against the petitioners continues to remain operative. In view of the same, it cannot be accepted that the LOC automatically expired after one year of its issuance, i.e., on 10.01.2022.

41. At this stage, it is also relevant to refer to the judgment of a Coordinate Bench of this Court in **Vikas Chaudhary v. Union of India**, 2022 SCC OnLine Del 97, wherein a similar issue came up for consideration and it was held as under:

“33. Now coming to the third issue, as to whether the impugned LOC issued pursuant to the request by Respondent 3 on 25-2-2019 can be said to have lapsed as is sought to be contended by the petitioner, who has, by relying on para 8(i) of the OM dated 27-10-2010 urged that the LOC stood automatically lapsed after one year. It has been pleaded by the petitioner that once nothing has been placed on record by the respondents to show that the same was ever renewed, the only inevitable conclusion is that the same stood automatically lapsed after one year. It has been further urged by the petitioner that once the LOC stood lapsed in February 2020 the guidelines issued on 22-2-2021, cannot come to the aid of the respondents to revive a dead LOC. The respondents, have, on the other hand, contended, that the LOC was duly extended from time to time and therefore, being in force when the amendment was introduced in February 2021, the same would continue till a deletion request is made by Respondent 3 i.e. the originating authority.



34. In order to appreciate the rival submissions of the parties on this issue, it would be necessary to refer to Clause 8(i) of the OM dated 27-10-2010 which reads as under:

“8 (i) The LOC will be valid for a period of one year from the date of issue and name of the subject shall be automatically removed from the LOC thereafter unless the agency concerned requests for its renewal within a period of one year. With effect from 1-1-2011, all LOCs with more than one year validity shall be deemed to have lapsed unless the agencies concerned specifically request BoI for continuation of the names in the LOC. However, this provision for automatic deletion after one year shall not be applicable in following cases:

- (a) Ban-entry LOCs issued for watching arrival of wanted persons (which have a specific duration).*
- (b) Loss of passport LOCs (which ordinarily continue till the validity of the document).*
- (c) LOCs regarding impounding of passports.*
- (d) LOCs issued at behest of courts and interpol.”*

35. As also to clause “J” of the guidelines issued on 22-2-2021, which reads as under:

“(J) The LOC opened shall remain in force until and unless a deletion request is received by BoI from the originator itself. No LOC shall be deleted automatically. Originating Agency must keep reviewing the LOCs opened at its behest on quarterly and annual basis and submit the proposals to delete the LOC, if any, immediately after such a review. The BoI should contact the LOC originators through normal channels as well as through the online portal. In all cases where the person against whom LOC has been opened is no longer wanted by the originating agency or by competent court, the LOC deletion request must be conveyed to BoI immediately so that liberty of the individual is not jeopardised.”

36. Upon a perusal of these clauses in OM dated 27-10-2010 and 22-2-2021, what emerges is, that while the petitioner is justified in urging that as per the OM dated 27-10-2010, a LOC, once issued was valid only for one year, unless the same was specifically renewed; this position has however, radically changed after the issuance of OM dated 22-2-2021. Under clause “J” of the guidelines issued on 22-2-2021, the position has been reversed, and now a LOC once opened, remains in force, till a request for deletion is made. The concept of an automatic deletion of a LOC no longer exists. No



doubt, Respondent 3, the originating agency in the present case, is expected to periodically review the LOCs issued at its behest. However, the fact remains, that in the present case, it is the respondents' categoric stand that the LOC opened in February 2019, was in force on 20-2-2021, when the new guidelines were issued. The petitioner has failed to show anything to the contrary. There is, therefore, absolutely no reason to disbelieve the respondents' plea that the impugned LOC was extended from time to time, and was in existence on 22-2-2021 when these consolidated guidelines came into effect."

42. In the said case, the Court upon finding that the LOC was in subsistence, ultimately proceeded to set aside the LOC issued against the petitioner therein. It is pertinent to note that the said judgment is presently under challenge by the Income Tax Department in LPA 78/2022. By order dated 03.02.2022 passed in LPA 78/2022, a Division Bench of this Court has stayed the operation, implementation, and execution of the impugned judgment dated 12.01.2022. However, it is significant that in the said LPA there is no challenge to the findings of the Court on the aforementioned issue as extracted in the paragraphs reproduced above. In fact, it is the case of the appellant therein that the Office Memorandum dated 22.02.2021 is applicable in the said matter and the concerned LOC did not stand automatically deleted.

43. In view of the aforesaid, this Court is of the considered view that the LOC dated 11.01.2021 issued against the petitioners did not automatically expire and continued to remain in subsistence.

B. If the answer to the aforesaid question is in the affirmative, whether the said LOC is legally sustainable in the facts and circumstances of the present case?

44. The legal position regarding the circumstances in which the



investigating agency may seek recourse to an LOC is well settled. The issue was comprehensively considered by the Court in *Sumer Singh Salkan v. Asst. Director*, 2010 SCC OnLine Delhi 2699. The relevant portion of the judgment is reproduced 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 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.”



2026:DHC:2338



45. Thus, the Court held that recourse to an LOC may be taken in cases involving cognizable offences under the IPC or other penal laws where the accused is deliberately evading arrest or failing to appear before the trial court despite the issuance of Non-Bailable Warrants (NBWs) and other coercive measures, and where there exists a likelihood that the accused may leave the country in order to evade arrest or trial. It was further clarified that an LOC is essentially a coercive measure intended to secure the presence of a person before the investigating agency or the court of law.

46. In the present case, RC2172019A0005/CBI/ACU-V/AC-II/New Delhi was registered by Respondent No. 2, i.e., CBI, on 19.08.2019 against the petitioners and certain other co-accused persons. Pursuant thereto, an LOC was issued against the petitioners at the request of the CBI through the Bureau of Immigration with effect from 11.01.2021, which continues to remain operative even as on date.

47. What assumes significance is that the LOC has remained in force for a period of more than five years. The record further reveals that subsequent to the registration of the FIR, the petitioners have never been summoned by the investigating agency to join investigation. The only instance when the petitioners were called upon to join the enquiry was vide letter dated 11.01.2019, whereby they were asked to appear on 14.01.2019 and 11.02.2019. Notably, these communications were issued at the stage of a preliminary enquiry and prior to the registration of the FIR. The petitioners duly appeared before the investigating agency on both occasions and cooperated with the enquiry.

48. It is also an admitted position that the investigation in the present case has remained pending for more than five years and, till date, no chargesheet



has been filed.

49. There is no material on record to indicate that the petitioners have either failed to cooperate with the investigation or have attempted to evade the process of law.

50. Upon a query of this Court with regard to the stage of investigation, respondent no. 2 filed an affidavit dated 19.01.2024 stating as under –

“1. That in compliance to the order dated 03.01.2024 passed by this Hon'ble Court directing the Respondent to file a Status Report showing the stage of investigation and also as to by when the chargesheet will be filed, it is submitted that in the present matter, as per allegation of FIR, M/s NDTV floated around 32 subsidiary firms all over the world, mostly in tax haven countries. Majorities of these companies had no business transaction and they were meant only for financial transaction to bring funds from abroad. These transactions are sham transactions and the said funds are invested by unknown Public Servants through NDTV Ltd and later laundered back to India through multiple layers of complex transactions and shell companies. As such, the present matter has national and international ramifications. Documents are required to be collected from various foreign jurisdictions to ascertain the original source of foreign investments received by NDTV's subsidiaries, verifying the utilization of funds received from foreign investments by collecting supporting documents related to utilization of funds and identifying the unknown public servants whose funds were invested through NDTV Ltd.

2. That Letter Rogatories (LRs) have been sent to UK, USA, Netherlands & Mauritius with permission of Ld. Trial Court for collecting documents related to original source of foreign investments received by NDTV's subsidiaries, verifying the utilization of funds received from foreign investments etc.

3. That in response to the LR sent to United States, the US Department of Justice had asked for furnishing additional information relating to the case which has been furnished to Ministry of Home Affairs for onward transmission to US Department of Justice.

4. That, no response has been received from UK, Netherlands & Mauritius so far.

5. That execution of LRs is still awaited and as such, the



2026:DHC:2338



investigation is still underway and the chargesheet would be filed in due course.”

51. While this Court is conscious of the complexities that may arise in investigations involving cross-border financial transactions, the fact remains that the petitioners’ fundamental rights cannot be curtailed indefinitely on account of a prolonged and uncertain investigative process. The continued operation of an LOC for such an extended period, particularly when the petitioners have not been summoned for investigation for several years and there are no allegations of non-cooperation, cannot be sustained.

52. It is also an admitted position that the petitioners had initially joined the enquiry when called upon to do so. The respondents now submit that, in view of the alleged international ramifications of the investigation, the execution report of LR’s must first be examined before the petitioners are called to join the investigation. However, the investigation has remained pending for several years, and the respondents themselves acknowledge that they are presently awaiting the execution reports of the Letters Rogatory, the timeline for which remains uncertain.

53. In such circumstances, the petitioners cannot be subjected to an indefinite restriction on their right to travel abroad.

54. It is now well settled [in terms of *Maneka Gandhi v. Union of India* (supra) and other judgements], that the right to travel abroad forms an integral part of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Any restriction on this right must satisfy the test of reasonableness, fairness, and proportionality.

55. In the present case, the material on record does not indicate any attempt on the part of the petitioners to evade the investigation or abscond



from the jurisdiction of this Court. There is also nothing on record to suggest that the petitioners have failed to participate in any legal proceedings or that coercive measures such as NBWs were ever required to secure their presence.

56. Another relevant factor which weighs with this Court is that the petitioners have been permitted to travel abroad on several occasions during the pendency of the proceedings and have consistently returned to India thereafter. This conduct further militates against any apprehension that the petitioners intend to evade the process of law.

57. In view of the aforesaid circumstances, this Court is of the considered opinion that the criteria laid down in *Sumer Singh Salkan v. Assistant Director* (supra) for the issuance and continuation of a Look Out Circular are not satisfied in the present case.

58. In *Shri Sathish Babu Sana V. Central Bureau Of Investigation*, 2022:DHC:332, while relying on the *Sumer Singh Salkan* (supra) the court has observed as under –

“10. The petitioner thus satisfies the test laid down by this Court in Sumer Singh Salkan (supra) as he has neither deliberately evaded arrest nor failed to appear before the Trial Court despite the non-bailable warrants nor has any coercive action been taken against him and he has travelled abroad number of times with the permission of the Court, which concession he did not misuse and therefore there is no justification in continuing with the LOC opened against the petitioner. Hence the respondent is directed to recall its request for opening the LOC against the petitioner. It is further directed that that the petitioner will continue to join the investigation as and when directed by the Investigating Officer and any condition that is imposed by the learned Special Judge in the complaint lodged pursuant to the ECIR, when the petitioner seeks permission to travel abroad will also be applicable in the abovenoted RC No.224/2017/A-001, till the charge-sheet is filed and thereafter, if the petitioner is charge-sheeted and summoned as an accused.”



59. Further in ***Thilakasri Krep Anand & Ors V. Union Of India Through Bureau Of Immigration, Ministry Of Home Affairs, & Anr.*** W.P.(CRL) 566/2023 the Court has observed as under –

“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.”

60. In ***Showik Indrajit Chakraborty v. The Addl. Superintendent of Police, Central Bureau of Investigation***, 2024:BHC AS:8457 DB, the Court while setting aside the LOC issued against the petitioners therein, observed as under –

“22 As noted above, in the facts of the present case, LOCs were issued at the behest of the respondent-CBI, way back in August 2020 with respect to a case registered on 6th August 2020, by CBI. Nothing was brought to our notice in the LOC, reflecting the ‘reason’ for issuing of LOCs, except registration of an FIR and setting out the gist of the FIR, or for the continuance of the LOCs. As noted above, till date, no report has been filed by the CBI i.e. either charge-sheet or closure report. It is not in dispute that the petitioners have joined the



investigation and have cooperated with the same. Thus, the submission of the learned Spl. P.Ps, that the LOCs issued at the behest of the CBI can be kept pending and that it is always open for the petitioners to file applications for suspension of the LOCs, when they wish to travel abroad, cannot, in the facts, be entertained.

23 LOCs cannot be issued as a matter of course, but only when there is/are reason/(s) to issue the same i.e. when a person deliberately evades arrest or does not appear in the trial Court or for any other reason. An LOC is a coercive measure to make the person surrender and as such interferes with the person's right of personal liberty and free movement and curtails the fundamental right of an individual to travel, guaranteed under Article 21 of the Constitution."

61. Very recently in ***Vineet Gupta v. Union Of India***, 2026:DHC:1616, the Court has observed as under –

"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 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;

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(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;"

62. It is also the contention of the respondents that, in the facts of the present case, it would be in the economic interest of India and in the larger public interest that the petitioners' departure from the country be monitored, particularly in view of the pendency of investigation across multiple foreign jurisdictions.

63. There can be no quarrel with the proposition that Clause 6(L) of the Office Memorandum dated 22.02.2021 carves out an exception permitting the issuance of an LOC, inter alia, on grounds relating to the "economic interests of India" and "larger public interest". However, it is equally well settled that the said exception cannot be invoked loosely.

64. It has been held by the Court in ***Prateek Chitkara v. Union of India***, 2023 SCC OnLine Del 6104, as under—

"82. The term "detrimental to economic interest" used in the Office Memorandum is not defined. Some cases may require the issuance of a look-out circular, if it is found that the conduct of the individuals concerned affects public interest as a whole or has an adverse impact on the economy. Squandering of public money, siphoning off amounts taken as loans from banks, defrauding depositors, indulging in hawala transactions may have a greater impact as a whole which may justify



the issuance of look-out circulars. However, issuance of look-out circulars cannot be resorted to in each and every case of bank loan defaults or credit facilities availed of for business, etc. Citizens ought not to be harassed and deprived of their liberty to travel, merely due to their participation in a business, whether in a professional or a non-executive capacity. The circumstances have to reveal a higher gravity and a larger impact on the country.

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106. This court is of the opinion that this is not a case that would be detrimental to the economic interest of the country as there is no allegation that the petitioner has siphoned off any public funds.

65. It is also relevant to note the following observations of the Court in ***Hulas Rahul Gupta v. Bureau of Immigration and Others*** 2023 SCC OnLine Del 8349 –

“22. A perusal of the aforesaid judgments also indicates that merely stating that a person’s travel would become detrimental to the economic interests of the country on the ground of misappropriation of money cannot be a reason to open an LOC curtailing a person’s right to travel.”

66. Even otherwise, the invocation of Clause 6(L) of the Office Memorandum dated 22.02.2021 must be assessed in the factual matrix of the case at hand. As already noted, the LOC has remained in force for more than five years. There is no material on record to indicate that the petitioners have failed to cooperate with the investigation or have, at any point, attempted to evade the process of law. It is also an admitted position that no chargesheet has been filed till date.

67. In the absence of any material demonstrating either non-cooperation, flight risk, or any concrete prejudice to the investigation, the continued operation of the LOC against the petitioners cannot be justified merely on unsubstantiated grounds of “economic interest” or “larger public interest”.

68. The respondents have placed reliance upon ***Ghanshyam Pandey v.***



2026:DHC:2338



Union of India, 2023/DHC/001114, *Pawanjot Kaur Sawhney v. Bureau Of Immigration & Anr*, 2023:DHC:5938, *Rahul Dilip Shah v. Union of India*, 2024:DHC:82, *C. Sivasankaran v. Foreigners Regional Registration Officer*, 2019 SCC OnLine Mad 9045, and *Bavaguthuraghuram Shetty v. Bureau of Immigration, Ministry of Home Affairs and Others*, 2021 SCC OnLine Kar 14863 to contend that courts ought not to interfere with LOCs during the pendency of investigation.

69. However, the said decisions are clearly distinguishable on the facts and circumstances.

70. In *Ghanshyam Pandey* (supra) the petitioner's immediate family resided abroad, his spouse was accompanying him during his foreign travel, and he had not demonstrated any substantial assets or roots within India. In those circumstances, the Court found that there existed a reasonable apprehension that the petitioner might not return to India, thereby impeding the investigation.

71. Similarly, in *Pawanjot Kaur Sawhney* (supra), the petitioner was an Overseas Citizen of India, her co-accused son was absconding and not available in India. The petitioner had no assets left in India and her residential accommodation was also in the United Kingdom. In those circumstances, the Court held that "*the apprehension of the SFIO that if the Petitioner is now permitted to go out of the country it would not be possible to get her in the country, cannot be said based on nil evidence or that this apprehension is unjustified. LOCs are meant to ensure that the persons who are accused of economic offences are not permitted to leave the country when there is a justified apprehension that such person will not return back to the country.*"



2026:DHC:2338



72. In *Rahul Dilip Shah* (supra) the petitioner had failed to respond to summons issued by the investigating agency and the Court found that the apprehension that he might evade the investigation could not be said to be baseless.

73. Likewise, in *C. Sivasankaran*, (supra) the petitioner was not an Indian citizen but a citizen of Seychelles and had claimed to be the diplomat of that State, which presented an entirely different factual matrix.

74. In *Bavaguthuraghuram Shetty v. Bureau of Immigration, Ministry of Home Affairs and Others* (supra), the petitioner was ordinarily residing and carrying on business in the United Arab Emirates. The observations made by the Court therein were rendered in the context of the peculiar facts of that case and cannot be applied mechanically to the present matter.

75. The respondents, in support of their submissions, have also placed reliance upon certain observations of the Supreme Court in *Abdul Rehman Antulay v. R. S. Nayak*, AIR 1992 SUPREME COURT 1701. It is contended that the Supreme Court in the said decision observed that the right to a speedy trial encompasses not merely the stage of trial but also the stage of investigation. It is further submitted that the Constitution Bench refused to fix time limit for trial of offences and emphasised that economic offences may have serious ramifications for the economy of the country and therefore should not be interfered with lightly.

76. The reliance placed upon the aforesaid judgment is misplaced. The Constitution Bench in *Abdul Rehman Antulay* (supra) was confronted with a distinct constitutional question, namely whether a fixed time limit ought to be prescribed for the completion of criminal proceedings so as to give meaningful effect to the guarantee of a speedy trial under Article 21 of the



2026-DHC:2338



Constitution. The submission before the Court was that, in the absence of a fixed time limit, the right to a speedy trial would remain illusory.

77. The issue arising in the present case is entirely different. In the present matter, the delay in the investigation has been considered only for the limited purpose of examining whether the Look Out Circular can be continued indefinitely against the petitioners. The question before this Court is not the permissibility or justifiability of delay in investigation per se, but whether prolonged and indefinite continuation of a Look Out Circular against the petitioners can be sustained in law. This issue must necessarily be examined in light of the Office Memoranda governing the issuance and operation of LOCs, as well as the judicial precedents regulating their validity and scope. As noticed hereinabove, there are multiple reasons which weigh against the continued operation of the LOC. There is no material on record to suggest that the petitioners have ever evaded the process of law, failed to cooperate with the investigation, or attempted to abscond from the jurisdiction of this Court.

78. The Respondents have also contended that, except for the delay in investigation, no prejudice has been caused to the petitioners. This Court is unable to accept the said submission. The petitioners have remained subjected to a Look Out Circular for more than five years despite the fact that they have never declined to cooperate with the investigation, have never attempted to abscond from the jurisdiction of the Court, and that no chargesheet has been filed since the registration of the FIR. The denial of the petitioners' ability to freely travel abroad for such a prolonged period, in the absence of any material justifying such restriction, itself constitutes a substantial prejudice and amounts to an unwarranted curtailment of their



2026:DHC:2338



personal liberty.

79. The respondents have further relied upon the judgment of this Court in *KRBL Ltd. v. Central Bureau of Investigation* (supra) to contend that delay in investigation, particularly in cases involving execution of Letters Rogatory with international ramifications, cannot by itself be a ground for interference. The said decision, however, is clearly distinguishable. In that case, the principal issue before the Court was whether delay in investigation could constitute a ground for quashing an FIR under Section 482 of the Code of Criminal Procedure, and the Court considered the balance between the right to a speedy trial and the need for a fair and effective investigation. The present case, however, concerns the legality of the continued operation of a Look Out Circular, which raises entirely different considerations relating to personal liberty and proportionality of restrictions imposed upon the right to travel.

80. Thus, in the circumstances, as discussed above the indefinite continuation of the LOC against the petitioners cannot be justified. The prolonged pendency of the investigation, coupled with the absence of any material demonstrating an intent on the part of the petitioners to abscond or obstruct the investigation, renders the continued restriction on their right to travel- disproportionate and arbitrary.

81. Accordingly, this Court is of the view that the continued operation of the LOC against the petitioners amounts to an unjustified curtailment of their fundamental right to personal liberty under Article 21 of the Constitution of India and cannot be sustained in law.

82. In view of the foregoing, the impugned LOC is hereby quashed, subject to the petitioners furnishing an undertaking by way of an affidavit



2026:DHC:2338



affirming that the petitioners shall:

(i) appear before the investigating authority/ies, as and when required or directed, and render full cooperation in any ongoing proceeding/s and investigation/s; and

(ii) provide all material/documents requested by the investigating agencies, and as may be available within their power or possession.

83. Copy of the said affidavits of undertaking shall be filed in these proceedings and also served upon learned counsel for the respondents.

84. The petition stands allowed in the above terms. Pending applications also stand disposed of.

SACHIN DATTA, J

MARCH 20, 2026

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