

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Reserved on 04.04.2024
Pronounced on 20.04.2024**

WP(C) No. 699/2024

Rupen Patel

.....Appellant(s)/Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Adv. with
Mr. Ankesh Chandel, Adv.
Mr. Rahil Raja, Adv.

vs

Union of India and others

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioner through the medium instant writ petition, has claimed certain reliefs, which are reproduced as under:

“a. That a writ of mandamus may be issued to the respondents directing them to produce the record of the Look Out Circular which has been issued against the petitioner but till date has not been served upon the petitioner.

b. That this Hon'ble Court may be pleased to quash and set aside the Look out Circular issued against the petitioner by issuing writ of certiorari.”

2. As per the case of the petitioner, an FIR bearing No. RC0042022A0005 dated 20.04.2022 for offences under Sections 5(1)(d) and 5(2) of the J&K Prevention of Corruption Act and Section 120-B of J&K RPC stands registered with respondent No. 2-Central Bureau of Investigation(CBI),. The subject matter of said FIR is the allocation of tenders in respect of construction of Kiro Hydroelectric Project in District Kishtwar. The petitioner, who happens to be the Chairman and Managing Director of Patel

Engineering Company Limited is not an accused nominated in the said FIR but the company has been nominated as an accused in the FIR. According to the petitioner, M/s Patel Engineering was found lowest bidder pursuant to the bids invited for the aforesaid project and on 24.02.2020, letter of appointment was issued in favour of the company, whereafter, a contract was executed between the parties on 15.05.2021. The estimated cost of the project was Rs. 4287.59 crores and the petitioner-company was awarded contract regarding civil works at the cost of Rs. 2240.27 crores.

3. Pursuant to letter dated 23.03.2022 issued by the Government of Jammu and Kashmir, the aforesaid FIR came to be registered in which it has been alleged that in the award of civil work package of Kiro Hydroelectric Project guidelines regarding e-tendering were not followed though a decision was taken in the 47th Board Meeting of Chenab Valley Power Projects Pvt. Ltd for retender through e-tendering with reverse auction after cancellation of ongoing tender process. It is also alleged in the FIR that the tender has been finally awarded to the petitioner-company. Accordingly, a regular case has been registered against Sh. Naveen Kumar Choudhary, the then Chairman, Chenab Valley Power Project Ltd(CVPPPL), Sh. M. S. Babu, the then M. D. CVPPPL, Sh. M. K. Mittal, the then Director CVPPPL, Sh. Arun Kumar Mishra, the then Director, CVPPPL and M/s Patel Engineering Company Limited.
4. It has been pleaded by the petitioner that during the course of investigation of the case, search was conducted at head office of the M/s Patel Engineering Company Ltd on 21st of April, 2022 and on 6th July, 2021,

search was conducted at the residence of the petitioner and other executives of the company. It has also been submitted that notices under Section 41-A of the Cr.P.C. were issued on 07.07.2022 by respondent No. 2 in the name of petitioner and Kavita Shirvaikar, Director to remain present for investigation in Jammu on 8th and 9th July, 2022. It has also been further submitted that another notice dated 28.12.2022 was issued by respondent No. 2 in the name of the petitioner and he was directed to depute officers named in the said notice to attend the investigation.

5. It has been pleaded by the petitioner that he along with other executives, who were summoned by respondent No. 2, visited the office of respondent No. 2 and cooperated with the investigation. They also provided the necessary documents as were sought by respondent No. 2. The petitioner has given the details of the visits made by him and the officers of company in the office of respondent No. 2, the Investigating Agency, the same are reproduced as under:

S. No.	Name	Date(s) of visit
1.	Rupen Patel(petitioner)	08.07.2022 to 15.07.2022
2.	Sunil Sapre	02.01.2023 to 05.01.2023
3.	Suresh Wagh	03.01.2023 to 06.01.2023
4.	Reshi Sharma	16.01.2024 to 18.01.2024 and 30.01.2024 to 10.02.2024
5.	Kavita Shirvaikar	09.07.2022 to 13.07.2022
6.	Rahul Agarwal	June, 2022 19.01.2023 to 21.12.2023, 15.01.2024 to 17.01.2024
7	James Kurian	07.07.2022 to 15.07.2022
8.	Rakesh Singh	07.07.2022 to 15.07.2022
9	Vaibhav Patel	07.2022 to 15.07.2022
10	Prakash Patel	11.07.2022 to 14.07.2022
11	Rajendra Chopde	18.07.2022 to 19.07.2022

6. It has been pleaded that on 24.10.2023, when the petitioner was travelling to Madrid Spain through Mumbai International Airport, he was stopped by Immigration Officer and informed that a Look Out Circular (LOC) has been issued against him in connection with aforesaid FIR and accordingly, the petitioner was restrained from boarding the flight. It has been submitted that vide letter dated 07.12.2023, the petitioner made a representation to respondent No. 2 and requested for copy of the Look Out Circular with a request to cancel the same. However, no action was taken by the said respondent on the representation of the petitioner. Another communication dated 08.01.2024 was addressed by the petitioner to respondent No. 2 bringing to its notice that the petitioner had to attend an International Award Ceremony at Mauritius and that Look Out Circular be revoked, but no response was given by the said respondent.
7. On 13.12.2023 and 11.01.2024, respondent No. 2 sought certain information and documents from the petitioner through email, pursuant whereunto officers of the company visited the office of respondent No. 2 and submitted all the documents and information. In spite of this, the LOC was not revoked/cancelled by respondent No. 2.
8. The petitioner has challenged the Look Out Circular issued against him on the grounds that there is no specific allegation against the petitioner in the FIR and that he cannot be made vicariously liable for the alleged acts committed by the company. It has been further contended that the petitioner has actively cooperated with the Investigating Agency right from its inception and responded to all the summons and communications. It has

been further contended that neither any bailable nor any non-bailable warrant has been issued against the petitioner and no case is pending against him. Therefore, there was no occasion for respondent No. 2 to issue LOC against the petitioner. It has been further contended that the petitioner has strong ties to the Country inasmuch as he is executing as many as four projects in the Country at present, therefore, he is not a flight risk. It has been further contended that if the petitioner is not allowed to travel abroad, it will hamper the progress of the projects execution of which has been undertaken by the petitioner in the Country. It has further been contended that the petitioner has made more than fifty travels abroad, whereafter, on each occasion, he has returned to India, therefore, there is no potential risk of petitioner 's absconding from the Country.

9. The respondents have contested the writ petition by filing a reply thereto. In their reply, the respondents have submitted that the investigation of the case is at crucial stage and that entire facets of criminal conspiracy are yet to be unearthed and the proceeds of crime are yet to be traced. According to the respondents, the petitioner having realized that there is enough evidence against him, is making a deliberate attempt to delay and frustrate the investigation. It has also been contended that there is every possibility that the petitioner may escape the Country and will never return for being available for investigation. It has been contended that the petitioner has played a key role in the criminal conspiracy and it is quite possible that he may influence the witnesses and destroy the evidence to frustrate the investigation. It has further been contended that the petitioner has deleted

data from his mobile phone and he is out to frustrate the investigation. The respondents have pleaded that people like Nirav Modi and Vijay Mallya have escaped the Country after causing huge loss by perpetrating bank loan frauds and likewise once the petitioner escapes, it would be difficult to bring him back because of long drawn extradition process. According to the respondents, the petitioner is trying to conceal the proceeds of crime and park the same abroad. It has been contended that it is in the economic and larger public interest of the Country that the petitioner is not allowed to leave the Country. The respondents have submitted that the petitioner has not been cooperated with the Investigating Agency and his responses have been found evasive as he has not answered the critical questions.

10. I have heard learned counsel for the parties and perused the record of the case.
11. Before determining merits of the rival contentions, it would be apt to notice the legal position as regards opening of Look Out Circular (LOC). The origin of Look Out Circulars can be traced to the provisions contained in Section 10A and 10B of the Passports Act. LOCs are also governed by various guidelines issued by the Ministry of Home Affairs and the Office Memoranda issued from time to time. Section 10A of the Passport Act vests power with a designate officer to suspend passport or render the travel document invalid for a period of four weeks, whereas Section 10B provides that every intimation by the Central Government or the designated officer, to any immigration authority at an airport or any other point of embarkation or immigration, restricting in any manner prohibiting the departure from

India of any holder of the passport or travel document is deemed to be an order under Section 10A of the Passport Act and the said order would continue in force for a period of three months.

12. The first Circular governing the issuance of Look Out Circulars was issued by the Ministry of Home Affairs vide No. 15022/13/78-F.1 dated 05.09.1979. This was followed by another Office Memorandum bearing No. 15022/20/98-F.IV dated 27.12.2000. Another Office Memorandum dated 27.10.2010 came to be issued by the respondents which was amended vide Office Memorandum dated 05.12.2017. Presently the guidelines for issuance of LOCs have been consolidated in terms of Office Memorandum dated 22.02.2021. The conditions stipulated for issuance of LOC in the said memorandum and relevant clauses of the guidelines 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 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 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:-

(A) The request for opening an LOC would be made by the Originating Agency (OA) to the Deputy Director, Bureau of Immigration (BOI), East Block - VIII, R.K.Puram, New Delhi - 110066 (Telefax:011- 26192883, email:boihq@nic.in) in the enclosed Proforma.

(B) The request for opening of LOC must invariably be issued with the approval of an Originating Agency that shall be an officer not below the rank of -

(i) Deputy Secretary to the Government of India; or

- (ii) Joint Secretary in the State Government; or
- (iii) District Magistrate of the District concerned; or
- (iv) Superintendent of Police (SP) of the District concerned; or
- (v) SP in CBI or an officer of equivalent level working in CBI; or
- (vi) Zonal Director in Narcotics Control Bureau (NCB) or an officer of equivalent level [including Assistant Director (Ops.) in Headquarters of NCB]; or
- (vii) Deputy Commissioner or an officer of equivalent level in the Directorate of Revenue Intelligence or Central Board of Direct Taxes or Central Board of Indirect Taxes and Customs; or
- (viii) Assistant Director of Intelligence Bureau/Bureau of Immigration (BOI); or
- (ix) Deputy Secretary of Research and Analysis Wing (R & AW); or
- (x) An officer not below the level of Superintendent of Police in National Investigation Agency; or
- (xi) Assistant Director of Enforcement Directorate; or
- (xii) Protector of Emigrants in the office of the Protectorate of Emigrants or an officer not below the rank of Deputy Secretary to the Government of India; or
- (xiii) Designated officer of Interpol; or
- (xiv) An officer of Serious Fraud Investigation Office (SFIO), Ministry of Corporate Affairs not below the rank of Additional Director (in the rank of Director in the Government of India); or
- (xv) Chairman / Managing Directors / Chief Executive of all Public Sector Banks.

(C) LOC can also be issued as per directions of any Criminal Court in India. In all such cases, request for opening of LOC shall be initiated by the local police or by any other Law Enforcement Agencies concerned so that all parameters for opening LOCs are available.

(D) The name and designation of the officer signing the Proforma for requesting issuance of an LOC must invariably be mentioned without which the request for issuance of LOC would not be entertained. (E) The contact details of the Originator must be provided in column VI of the enclosed Proforma. The contact telephone/mobile number of the respective control room should also be mentioned to ensure proper communication for effective follow up action. Originator shall also provide the following additional

information in column VI of the enclosed Proforma to ensure proper communication for effective follow up action:-

(i)	Two Gov/ NIC email IDs
(ii)	Landline number of two officials

(iii) Mobile numbers of at least two officials, one of whom shall be the originator (F) Care must be taken by the Originating Agency to ensure that complete Identifying particulars of the person, in respect of whom the LOC is to be opened, are indicated in the Proforma mentioned above. It should be noted that an LOC cannot be opened unless a minimum of three identifying parameters viz. name & parentage, passport number or Date of Birth are available. However, LOC can also be issued if name and passport particulars of the person concerned are available. It is the responsibility of the originator to constantly review the LOC requests and proactively provide additional parameters to minimize harassment to genuine passengers. Details of Government identity cards like PAN Card, Driving License, Aadhaar Card, Voter Card etc, may also be included in the request for opening LOC.

(G) The legal liability of the action taken by the immigration authorities in pursuance of the LOC rests with the originating agency
 (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 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 in Bol immediately so that liberty of the individual is not jeopardized.

(K) On many occasions, persons against whom LOCs are issued, obtain Orders regarding LOC deletion/quashing/suspension from Courts and approach ICPs for LOC deletion and seek their departure. Since ICPs have no means of verifying genuineness of the Court Order, in all such cases, orders for deletion/ quashing/suspension etc.

of LOC, must be communicated to the BoI through the same Originator who requested for opening of LOC. Hon'ble Courts may be requested by the Law Enforcement Agency concerned to endorse/convey orders regarding LOC suspension/ deletion/quashing etc. to the same law enforcement agency through which LOC was opened.

(L) In exceptional cases, LOCs can be issued even in such cases, 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.

(M) The following procedure will be adopted in case statutory bodies like the NCW, the NHRC and the National Commission for Protection of Children's Rights request for preventing any Indian/ foreigner from leaving India. Such requests along with full necessary facts shall be brought to the notice of law enforcement agencies like the police. The Superintendent of Police (S.P.) concerned will then make the request for issuance of an LOC upon an assessment of the situation, and strictly in terms of the procedure outlined for the purpose. The immigration/emigration authorities will strictly go by the communication received from the officers authorized to open LOCs as detailed in Clause (B) above.

(N) For effective and better interception of LOC subjects, following guidelines shall be followed by the Originator:

i) Specific action to be taken by the Immigration authorities on detection must be indicated in the filled LOC proforma.

(ii) In case of any change in parameters / actions / investigating officer/ Originator contact details or if any court order is passed in the case, the same should be brought to the notice of the BoI immediately by the originating agency concerned for making necessary changes in the LOC.

(iii) For LOCs originated on court orders, the concerned PS / IO should send the identifying parameters of the subject to the BoI as court orders contain only name and parentage of the subject./

(iv) In case an LOC is challenged and stayed by the concerned court or a court issues any directive with regard to the LOC, the Originator must inform the BoI urgently and accordingly seek amendment/deletion of the LOC..

(v) Whenever the subject of LOC is arrested or the purpose of the LOC is over, a deletion request shall be sent by the Originator immediately to the BoI.

(vi) The Originator must respond promptly whenever the subject / likely match is detected a the ICP.

The confirmation regarding the identity of the subject and action to be taken must be informed immediately to the ICP.

(vii) The BOI would form a team to coordinate matters regarding the LOC. This team would contact the LOC issuing agencies to get the status of LOC updated.

(viii) Each LOC Originating Agency referred in para 6 (B) above will appoint a Nodal officer as indicated in Annexure - I for coordination/ updation of LOC status with BoI. The said team of BoI [as mentioned in para 6(N) (vii)] would remain in constant touch with this Nodal Officer.

7. It is requested that the consolidated guidelines as contained in this O.M. may be brought to the notice of all concerned for strict compliance."

13. From a perusal of various office memoranda/circulars issued by the respondents on the subject of LOCs, it comes to the fore that initially the LOCs could not be issued on the grounds of economic interests of India or larger public interest, but later on in terms of office memorandum dated 05.12.2017 and latest office memorandum dated 27.02.2021, in exceptional cases LOCs can also been issued, if it appears that departure of a person is detrimental to sovereignty or security or integrity of India, 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 indulge in acts of terrorism or offences against the State and/or such departure would not be in the larger public interests.
14. The first precedent dealing with the law relating to issuance of Look Out Circular, which is required to be noticed is the judgment of Delhi High Court in the case of **Sumer Singh Salkan v Assistant Directors and others**, SCC Online Del 2699. In the said case, the High Court of Delhi

while considering the validity of the LOC issued against the petitioner therein, formulated the following questions:

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

B. What procedure is required to be followed by the investigating agency before opening a Lookout-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 before it and under what circumstances, the subordinate courts can intervene?

15. The Delhi High Court after discussing the law on the subject, answered the aforesaid questions in the following manner:

"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 before I.O. or should surrender before 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."

16. The aforesaid judgment was rendered by the Delhi High Court at a time when Office Memorandum dated 27.10.2010 and Office Memorandum

dated 05.12.2017 as also the guidelines dated 22.02.2021 had not been issued. As per the aforesaid judgment, the Look Out Circular could only be issued when there was a cognizable offence registered against the person against whom the LOC has been opened.

17. In **Sri Harshvardhana Rao vs. Union of India and others**, writ petition No. 12185 of 2022 decided on 24.08.2022, Karnataka High Court after noticing the guidelines dated 22.02.2021 held that LOC against a subject can be issued in cognizable offences where the accused is deliberately avoiding arrest and not appearing before the trial court despite issuance of non bailable warrants and other coercive measures against him. It was further observed that in exceptional cases, LOC can be issued to decline departure of a person from India in cases where departure of such a person is detrimental to the sovereignty or security of India, detrimental to the bilateral relations with any country, detrimental to the economic interests of India and detrimental to the public interest.
18. High Court of Delhi in the case of **Nepun Singhal vs Union of India and others, 2023 SCC Online Del 6721**, after noticing the Office Memoranda dated 27.10. as amended on 05.12.2017, observed that unless and until the conditions in these office memoranda are satisfied, a LOC cannot be opened. The Court further observed that LOC can be issued only when there are sufficient reasons and if there is a condition precedent for issuance of such LOC, it must be provided in the LOC. The Court went on to observe that a mere probability or possibility that a person may ultimately be made an accused, cannot be the sole basis for opening LOC as the same

has the effect of impeding the movement of a citizen, which takes away his right to travel abroad that has been elevated to the status of fundamental right under Article 21 of the Constitution of India in terms of ratio laid down by the Supreme Court in **Maneka Gandhi v Union of India (1978) 1 SCC 248**.

19. A coordinate Bench of this Court in the case of **Aman Gehlot vs Anti Corruption Bureau and others**, WP(C) No. 3201/2023 decided on 21.12.2023 has held that Look Out Circular cannot be issued as a matter of course but in exceptional circumstances after following guidelines where there are reasons for the same i.e., where accused deliberately evades arrest or does not appear before the trial court.
20. For the foregoing analysis of law on the subject, it is manifestly clear that recourse to opening of Look Out Circular can be taken by the Investigating Agency when the accused is deliberately evading the arrest, not responding to the process issued by the Investigating Agency, not appearing in the trial court despite issuance of coercive measures and if there is likelihood of the accused leaving the country to evade trial/arrest. The scope of grounds on which LOC can be opened has been widened in terms of Office Memoranda dated 05.12.2017 and latest guidelines dated 22.02.2021 which provide that in exceptional cases, LOC can be issued against a person when the departure of such person from India is detrimental to the economic interests of India or the same is detrimental to the larger public interest.
21. Learned Sr. AAG appearing for the respondents has defended the action of the respondents of opening LOC against the petitioner on the grounds that

departure of the petitioner from India is detrimental to not only economic interests of the country but also against the public interest. It is to be borne in mind that issuance of LOCs under the aforesaid grounds is to be resorted to only in exceptional cases and it has to be shown that the person concerned is evading the process of the Investigating Agency and that there is substantial material before the competent authority to show that departure of such person would be detrimental to the economic interests of India or to the public interest. The meaning to the phrases 'economic interest' and the 'larger public interest' appearing in the Office Memorandum dated 05.12.2017 read with guidelines dated 21.02.2021 cannot be expanded in a manner so as to allow the respondent-agencies to impede the fundamental rights of a person to travel abroad without there being credible material and reasons for taking such an action.

22. In the instant case, the petitioner has given vivid details of the dates and instances when he and other directors/executives of the accused-company caused their appearance before the Investigating Agency. The same has not been rebutted by the respondents in their reply. The petitioner has also furnished the details as regards the information that was sought from the accused-company and his response to the same. This aspect of the matter is also not in dispute. What respondent No. 2 alleges is that the petitioner has deleted the data of his mobile phone and he is evading answers to its questions. It is not the case of the respondent No. 2 that the petitioner has avoided the process issued against him or that he has not surrendered his mobile phone and other electronic gadgets for their analysis by the experts.

23. An Investigating Agency cannot expect a confession from a suspect. If the petitioner is not giving correct answers to the queries of the Investigating Agency, it is for the said Agency to find ways and means of collecting the relevant material by using different techniques of investigation but they cannot expect the petitioner to make a confession before them. Merely because the petitioner is not answering the queries of the Investigating Agency to its liking, it cannot be a case of non-cooperation to the investigation. It is only if the petitioner does not respond to the summons or process of respondent No. 2 that it can be stated that he is not cooperating with the Investigating Agency. Such is not the case at hand.
24. Learned Senior AAG appearing on behalf of the respondents by relying upon the Division Bench judgment of the Bombay High Court in the case of **Chaitya Shah vs Union of India, 2021 SCC Online BOM 3967**, contended that when the magnitude of fraud involved is huge, it cannot be stated that LOC was unfounded. She has submitted that in the instant case, the subject matter of investigation relates to a project running into thousands of crores, therefore, there is good enough reason to issue LOC against the petitioner.
25. If we have a look at the facts of the case in **Chaitya Shah's case (supra)** upon which reliance has been placed by learned Senior AAG, in that case, the petitioner was a non resident Indian, who was settled in Hong Kong. Even his wife and children were based in Hong Kong. It is in these cases that the Bombay High Court held that the return of the petitioner therein to India cannot be presumed.

26. In the instant case, the petitioner is admittedly a resident of India. He has given the details of as many as four projects, which he is executing in India. In fact, the project which is subject matter of investigation has admittedly not been cancelled so far and the petitioner continues to execute the said project. Therefore, it is not a case where the petitioner has no interests in India and he himself is a non resident India. Thus, the ratio laid down in **Chaitya Shah's case (supra)** would not be applicable to the facts of the present case.
27. In the present case, as already stated, the petitioner has not evaded the process issued by the respondent-Investigating Agency and he has furnished all the information that he was required to furnish. The respondents have not even placed the copy of the LOC before this Court nor the same has been furnished to the petitioner. A perusal of the LOC would have enabled this Court to ascertain its scope. It would have also given an idea as to whether there was any material before the respondents to conclude that departure of the petitioner would be detrimental either to public interest or to economic interests of the country. In the absence of a copy of LOC and in the absence of anything in the reply of the respondents, it cannot be stated that there was any such material available before the competent authority at the time of issuance of the LOC.
28. In view of the foregoing discussion, the petition is allowed and the Look Out Circular(LOC) opened against the petitioner is quashed. However, to take care of the concerns of respondent No. 2, it is directed that the

petitioner shall be permitted to go abroad subject to the following conditions:

- (i) That he shall intimate his travel details to the Investigating Agency before proceeding abroad and he shall also furnish the details of the places where he intends to travel.
- (ii) That he shall also provide the cell phone number(s) on which he would be available while travelling abroad and he shall also furnish the address(es), on which he shall be available, while travelling abroad.
- (iii) That he shall upon his return inform the Investigating Agency about his arrival.
- (iv) That he shall deposit an FDR for an amount to the tune of Rs. 25 lacs with the Investigating Agency.
- (v) That he shall deposit valid passport of his wife with the Investigating Agency.
- (vi) That he shall not tamper with the prosecution evidence.

29. The petition stands disposed of.

(SANJAY DHAR)
JUDGE

Jammu
20.04.2024
Rakesh PS

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No