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

% *Date of decision: 30th July, 2024*

+ W.P.(CRL) 1832/2023

SHAHNAWAZ MOHAMED HANIF MALANGPetitioner

Through: Ms. Sangita Bhayana, Advocate.

versus

UNION OF INDIA & ORS.Respondents

Through: Counsel for respondents (appearance not given)

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CRL.M.A.22149/2024 (Exemption)

1. For the reasons stated therein, the Application is allowed.
2. The Application is accordingly disposed of.

CRL.M.A. 22148/2024 (for modification of Order dated 10.07.2024)

3. The present Application has been filed on behalf of the Petitioner for modification of the Order dated 10.07.2024, whereby the LOC against the petitioner, was quashed.
4. **It is submitted** that though *vide* Order dated 10.07.2024, the LOC against the petitioner has been quashed but a condition had been imposed that he shall take the permission from the learned Trial Court before leaving the country. It is further submitted that after the registration of the FIR by



the CBI, the petitioner has never been arrested. Further, even though the Charge Sheet has already been filed before Lucknow Court, the cognizance is yet to be taken and because of these circumstances, no application for bail has been filed on behalf of the petitioner. It is further submitted that the bail and cancellation of LOC, operate in two different spheres and such a condition would have an impact of nullifying the cancellation of LOC.

5. It is further submitted that similar condition which was imposed while quashing the LOC of two of the co-accused namely Anis Mohd. Iqbal Mansoori and Shahan Mirza has already been modified/deleted.

6. It is therefore prayed that on the same premise and parity the condition to take permission of the Trial Court to travel abroad, may be deleted from the Order dated 10.07.2024

7. **Learned Prosecutor for the CBI has vehemently argued** that this condition is well considered and in case the petitioner goes abroad, there would be no control of this Court to ensure his presence and his absence would delay the trial. The Prosecutor has placed reliance on *Disha A. Ravi V/s State* in CrI.M.C. 5914/2023 decided by the Coordinate Bench of this Court on 26.09.2023, in support thereof. The learned counsel has further stated that the Charge Sheet has already been filed, though cognizance has not been taken and there is no occasion for the petitioner, to seek bail, at this stage.

8. **Submissions heard.**

9. Pertinently, the LOC that had been issued against the petitioner, has been cancelled *vide* Order dated 10.07.2024, though a condition had been put that the petitioner would take prior permission from the Court, whenever he is travelling abroad.



10. The record shows that the petitioner in his Application for cancellation of LOC, had specifically mentioned that he was working as Sales Supervisor in Capita International General Trading – LLC, Dubai, UAE and it was in connection with her job, that she used to go to Dubai. A Letter dated 10.08.2023 from his employer Mr. Mohammed Haneefa Chemnad Bava, was also annexed in support thereof.

11. It was further asserted stated that his family which comprises of his wife and two minor sons are permanent residents of Mumbai. He is the sole bread earner of the family and his family would starve to death if he is not permitted to travel to Dubai to take up a job, since he has no source of income in Mumbai.

12. From the submissions made in the Application and the documents relied upon by the petitioner, an impression was created that it is the LOC, which was preventing him from taking up a job in Dubai for which he had an offer. The challenged condition was, therefore, imposed to ensure that the investigations and the trial takes place and is not thwarted on account of non-presence of the petitioner.

13. However, today during the course of arguments, it has been submitted that the petitioner has not gone to Dubai and he is presently located in India. It is vehemently contended that the condition of seeking prior permission is not only onerous, but also is self-defeating. The petitioner apparently is based in Mumbai as reflected in the memo of parties, while the case has been registered in Lucknow.

14. Considering the totality of circumstances and keeping in mind that though there is no bail application pending as the cognizance on the Chargesheet is yet to be taken by the learned Court, in Lucknow, while the



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petitioner is based in Mumbai, the condition under challenge, in para 16 of the Order dated 10.07.2024, is modified, to read as *“The matter is already before the learned Trial Court for trial. The petitioner shall keep the Trial Court informed about his place of residence and his updated contact number and in the event of travelling abroad, he may inform the concerned Trial Court, by way of an Application annexed with his itinerary and his intended place of residence in abroad. The Look Out Notice is, therefore, directed to be closed.”*.

15. Thus, the condition is accordingly modified in the Order dated 10.07.2024.

The Application is accordingly disposed of.

(NEENA BANSAL KRISHNA)

JUDGE

JULY 30, 2024/RS