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

% ***Judgment pronounced on: 18.11.2025***

\+ **W.P.(C) 17293/2024 and CM APPL.49491/2025**

AMIT SETHI .....Petitioner

Through: Mr. Sanjeev Bhandari, Mr. Amit Dhall and Mr. Rajat Srivastava, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Amit Tiwari, CGSC, Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal and Mr. Kushagra Malik, Advocates for UOI.
Ms. Rachita Garg and Mr. Agam Rajput, Advocates for BOB.
Mr. Arun Kumar Shukla, Mr. Sidhant Wadhwa, Mr. Naman Shukla and Mr. Rajiv Kishore Dubey, Advocates for PNB.
Mr. Rajesh Kumar, SPP, CBI along with Ms. Mishika Pandita and Mr. Changez Khan, Advocates for CBI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The petitioner has filed the present petition praying as under –

> *"a. Issue a writ of certiorari or any other appropriate writ or direction quashing and setting aside the impugned Look Out Circular dated LOC 29.07.2020 & 15.01.2020 (which are still not provided to the Petitioner) issued against the Petitioner;*

> *b. Declare LOCs issued by the Respondent banks as Null and unexecutable; or/and*
> *c. Grant (interim) temporary relief by suspending the LOCs issued against the Petitioner; or/and*
> *d. Direct the Respondent no. 1 & 2 not to Restrain the Petitioner to Travel abroad or anywhere in India;"*

2. The case of the petitioner is that the LOCs against the petitioner have been issued at the behest of respondent no. 3 (Bank of Baroda) and respondent no. 4 (Punjab National Bank) merely on account of alleged outstanding dues of respondent no. 6, Santosh Overseas Pvt. Ltd., a company presently undergoing liquidation. The credit facilities sanctioned to respondent no. 6 formed part of a consortium arrangement between respondent nos. 3, 4 and other Banks.

3. It is submitted that the petitioner is only a guarantor in respect of the credit facilities extended to respondent no. 6.

4. It is further submitted by the petitioner that the impugned LOCs issued at the behest of the said Banks stand vitiated in light of the judgment of the Bombay High Court in ***Viraj Chetan Shah v. Union of India***, W.P. No. 719/2020.

5. Attention of this Court has also been invited to the judgment delivered by a Coordinate Bench in ***Vinay Mittal & Anr. v. Bank of Baroda & Ors., 2025:DHC:2720***, as well as the order dated 08.10.2025 passed in ***Anil Kumar Gianchand Gupta v. Bank of Baroda & Ors., W.P.(C) 12842/2025***. It is submitted that both matters are factually and legally indistinguishable from the present case, as they concern co-guarantors in the very same loan transaction. In those proceedings, Look Out Circulars issued at the behest of the respondent no.3 (Bank of Baroda) and the respondent no.4 (Punjab National Bank) against similarly situated guarantors were quashed.

6. It is further pointed that the petitioner is not named in any FIR and no chargesheet has ever been filed against him.

7. On the other hand the case of the respondent no. 3 and 4 is that the petitioner is the personal guarantor in respect of credit facilities extended to respondent no. 6, and is therefore jointly and severally liable for repayment of the outstanding dues.

8. It is pointed that due to multiple financial irregularities and diversion of funds, the respondent no. 3 and respondent no. 4 declared the account of respondent no. 6 as "Fraud" on 11.11.2019 and 30.09.2019 respectively. It is also pointed that the consortium's lead bank, IDBI Bank Ltd., lodged an FIR with the CBI on behalf of all consortium lenders on 14.01.2020.

9. It is submitted that in view of the magnitude of the outstanding amount and the apprehension that the directors and guarantors of the borrower company may flee to foreign jurisdictions to avoid repayment, the respondent no. 3 and the respondent no. 4, vide letters dated 29.07.2020 and 15.01.2020 requested respondent no. 2 (Bureau of Immigration) to issue a Look Out Circular against the directors and guarantors of M/s Santosh Overseas Pvt. Ltd., namely, Mr. Sunil Mittal, Mr. Ashish Mittal, Mrs. Neena Mittal, Mr. Vinay Mittal, Mr. Sahil Mittal, Mr. Anil Kumar Gupta, and Mr. Amit Sethi (the present petitioner).

10. It is submitted that vide Office Memorandum No. 25016/19/2017-Imm dated 12.10.2018, issued by the Ministry of Home Affairs, Government of India, Heads of Public Sector Banks were expressly empowered to request opening of LOCs.

11. The respondent no. 5, Central Bureau of Investigation (CBI), in its Status Report dated 15.02.2025, has made the following submissions -

a. A criminal case being RC 219 2020 E0005 was registered by the CBI, EO-I Branch, New Delhi, on 26.06.2020 under Sections 120-B read with 420, 467, 468, 471 IPC, and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, along with the corresponding substantive offences. The FIR was instituted on the basis of a written complaint dated 14.01.2020, submitted by Shri Sanjay Kumar Pandey, DGM, NPA Management Group, IDBI Bank Ltd.

b. According to the CBI, the complaint was directed against M/s Santosh Overseas Ltd., its Director/CMD Shri Sunil Mittal, and unknown public servants, alleging that the borrower company, through its directors and other associated individuals, had entered into a criminal conspiracy with a dishonest intention to defraud the consortium banks.

c. The investigation revealed that the loan amounts disbursed under various credit facilities were diverted by accused Shri Sunil Mittal, acting in his capacity as Director of M/s Santosh Overseas Ltd., in conspiracy with other accused persons. It is submitted that these funds were allegedly misappropriated and siphoned off for purposes other than those for which the loans had been sanctioned.

d. During the course of investigation, sufficient evidence emerged against accused Shri Sunil Mittal and others to prosecute them for offences punishable under Section 120-B read with 420 of the Indian Penal Code (IPC) and substantive offences under Section 420 IPC. Consequently, a chargesheet was filed on 24.02.2024 before the learned District & Sessions Judge, CBI, Rouse Avenue District Court, New Delhi. As offences under the Prevention of Corruption Act, 1988 were not established against any public servant, the case was assigned thereafter to the Court of the Learned CMM, and subsequently marked to the Learned ACMM-2, Rouse Avenue District Court, New Delhi, where cognizance is presently awaited.

e. It is further submitted that although the petitioner is not an accused in the criminal prosecution, the borrower company, acting through its Directors, Shri Sunil Mittal and Shri Ashish Mittal, has allegedly committed a large-scale financial fraud amounting to approximately Rs. 445.86 Crores. Therefore, the petitioner, in his capacity as a personal guarantor, remains liable for repayment of the outstanding dues owed to the lender banks.

12. Vide order dated 17.09.2025, this Court directed the respondent no. 5 as under -

> *The affidavit to be filed by the respondent no. 5/CBI shall specifically disclose:*
> *(i) Whether the petitioner has been named in the FIR or whether any charge-sheet has been submitted by the CBI?*
> *(ii) Whether the petitioner has been called for investigation at any stage?*
> *(iii) Whether any investigation in the matter is ongoing or concluded?*

13. In compliance with the same the respondent no. 5 filed an affidavit dated 15.10.2025 and submitted as under -

> *"4. That in reply to the said directions passed by the Hon'ble High Court of Delhi, it is stated as follows:-*
> *(i) It is submitted that present petitioner namely Amit Sethi was not a FIR named accused in the said CBI case bearing number RC 219 2020 E0005, though he was one of the guarantors for the credit facilities availed by the accused borrower company M/s Santosh Overseas Ltd. It is further submitted that the chargesheet in the present case was filed*

before the Hon'ble District & Sessions Judge, CBI, Rouse Avenue District Court, New Delhi, on 24.02.2024 u/s 120-B, r/w 420 IPC and substantive offence u/s 420 IPC. The copy of chargesheet is annexed herewith as Annexure-R1.
(ii) It is submitted that the petitioner was not called for investigation at any stage in RC2192020E0005.
(iii) it is submitted that investigation in the present case has culminated into filing of chargesheet and no further investigation is going on in RC2192020E0005."

14. Having heard the respective counsel for the parties, this court is inclined to allow the present petition for the following reasons -

i. No criminal case is pending against the petitioner. No FIR or chargesheet has been filed against the petitioner, as is also evident from the affidavit dated 15.10.2025 filed by respondent no. 5. This issue has already been considered by this Court in ***Puja Chadha v. Directorate of Enforcement***, 2025:DHC:8787, and ***Mr. Sandeep Dhanuka v. Directorate of Revenue Intelligence & Anr***., 2025:DHC:9654, wherein the Look-Out Circulars issued against the petitioners therein were quashed on the ground that no cognizable offence was pending against them. It was further held that the exceptions pertaining to the "economic interests of India" and "larger public interest" cannot be invoked in a vague or sweeping manner to justify restraint on an individual's movement.

ii. The present LOC(s) have been issued at the behest of the respondent banks. Sub-para (xv) to para 8(b) of the Ministry of Home Affairs' Office Memorandum No. 25016/31/2010-Imm dated 27.10.2010 (corresponding to Clause 6(B)(xv) of the consolidated Office Memorandum of 2021), which empowers the Chairmen, Managing Directors, and Chief Executive Officers of Public Sector Banks to request the issuance of a Look-Out Circular, stands already quashed by the Division Bench of the Bombay High Court in ***Viraj Chetan Shah v. Union of India through the Ministry of Home Affairs & Anr***., 2024 SCC OnLine Bom 1195. The relevant portion of the judgement is reproduced as under -

> *"195. Consequently:*
> *(a) Clause 8(b)(xv) of the 2010 amended OM (equivalent to Clause 6(B)(xv) of the 2021 consolidated OM) which includes the Chairmen, Managing Directors and Chief Executive Officers of all public sector banks as authorities who may request the issuance of a Look Out Circular is quashed. (b) All the LOCs are quashed and set aside. (c) The Bureau of Immigration will ignore and not act upon any LOCs issued by any public sector banks. All databases will be updated accordingly. We do not expect the public sector banks to do this, and therefore direct the Bureau of Immigration or MHA to do the needful. (d) All authorities at all ports of embarkation will be informed and apprised accordingly."*

The said judgment has also been relied upon by this Court in ***Manan Goel v. Union Of India & Ors.***, 2025:DHC:10023.

iii. In other connected matters the LOC(s) issued qua the other guarantors of the same borrower company, have already been quashed by a Coordinate Bench of this Court vide judgment passed in ***Vinay Mittal & Anr. v. Bank of Baroda & Ors***., (supra) as well as by order dated 08.10.2025 passed in ***Anil Kumar Gianchand Gupta v. Bank of Baroda & Ors***., (supra).

Relevant portion of the judgment in ***Vinay Mittal & Anr. v. Bank of Baroda & Ors***., (supra) is reproduced as under –

> *"10. The respondent no.1/Bank of Baroda in its counter affidavit has taken a stand that vide letter dated 29.07.2020, it had requested Bureau of Immigration for issuance of LOC against the directors/guarantors of the principal borrower, M/s Santosh Overseas Private Ltd./respondent*

no.6, in terms Office Memorandum dated 27.10.2010 bearing O.M. 23016/31/2010- Imm. However, it is not in dispute that the petitioners are only guarantors of the respondent no.6/borrower.

11. Having regard to the fact that – (i) Clause 8(b)(xv) of the Office Memorandum dated 27.10.2010 bearing O.M. 23016/31/2010-Imm. [which is equivalent to Clause 6(B)(xv) of the O.M. 25016/10/2017-Imm.(Pt.) dated 22.02.2021] in terms of which LOC were recommended to be issued by the aforesaid banks, has already been quashed by the Division Bench of the Bombay High Court in Viraj Chetan Shah (supra); (ii) a Coordinate Bench of this court in Rajesh Kumar Mehta (supra) has also quashed the LOC relying upon the aforesaid decision of the Bombay High Court; (iii) there is no criminal case pending against the petitioner nor there is any request of any investigating agency for the issuance of LOC in question; (iv) the petitioners are only guarantors; and (v) the banks have already availed their remedies under SARFAESI Act, this court is inclined to allow the present writ petition.

12. Resultantly, the writ petition is allowed and the impugned LOC issued against the present petitioners, is quashed and set aside."

Relevant portion of order dated 08.10.2025 passed in ***Anil Kumar Gianchand Gupta v. Bank of Baroda & Ors***., (supra) is reproduced as under –

"8. Inviting attention of the Court to the judgement dated 15.04.2025 passed in WP (C) 4781/2024 titled as Vinay Mittal & Anr vs Bank of Baroda & Ors., he submits that the said petition was filed by two other guarantors assailing the same LOC which had been issued at the instance of respondent no.1/Bank of Baroda and respondent no.4/PNB.

9. He submits that vide the said judgement, this Court had quashed the said LOC on the ground that the banks do not have any authority to request for issuance of LOC in terms of memorandum dated 27.10.2010 which was superseded by another O.M. dated 22.02.2021. The relevant paragraph from the said judgement reads as follows:

> *"7. Mr. Amit Tiwari, the learned CGSC appearing on behalf of Union of India (UOI) submits that he has instructions to state that LOCs in the present case have been issued at the instance of two banks, namely, PNB and BoB. On a query posed by the court, he states that in terms of the aforesaid OM dated 27.10.2010 (as amended) and OM dated 22.02.2021, the Bureau of Immigration*

(BoI) is only the custodian of the LOC and the modification/deletion of LOC can be done by the BoI in the event originating agency makes a request to that effect or if the court so directs.

8. On further being queried, Mr. Tiwari submits that the BoI has not received any request from any investigating agency for issuance of LOC against the present petitioners.

9. The respondent no.5/PNB has not filed any counter affidavit. However, respondent no.4/Union Bank of India has filed a counter affidavit stating that it has not sent recommendation to competent authority to issue a look out circular against the petitioners.

10. The respondent no.1/Bank of Baroda in its counter affidavit has taken a stand that vide letter dated 29.07.2020, it had requested Bureau of Immigration for issuance of LOC against the directors/guarantors of the principal borrower, M/s Santosh Overseas Private Ltd./respondent no.6, in terms Office Memorandum dated 27.10.2010 bearing O.M. 23016/31/2010-Imm. However, it is not in dispute that the petitioners are only guarantors of the respondent no.6/borrower.

11. Having regard to the fact that – (i) Clause 8(b)(xv) of the Office Memorandum dated 27.10.2010 bearing O.M. 23016/31/2010-Imm. [which is equivalent to Clause 6(B)(xv) of the O.M. 25016/10/2017-Imm.(Pt.) dated 22.02.2021] in terms of which LOC were recommended to be issued by the aforesaid banks, has already been quashed by the Division Bench of the Bombay High Court in Viraj Chetan Shah (supra); (ii) a Coordinate Bench of this court in Rajesh Kumar Mehta (supra) has also quashed the LOC relying upon the aforesaid decision of the Bombay High Court; (iii) there is no criminal case pending against the petitioner nor there is any request of any investigating agency for the issuance of LOC in question; (iv) the petitioners are only guarantors; and (v) the banks have already availed their remedies under SARFAESI Act, this court is inclined to allow the present writ petition."

10. This Court finds that the facts of the present case are identical to the facts in Vinay Mittal (supra) since the petitioner herein is also a guarantor with the petitioners therein and thus, similarly situated.

11. Since this Court has already quashed LOC qua other two guarantors in Vinay Mittal (supra), this Court is of the view that the present petition also deserves to be allowed.

12. Accordingly, the petition is allowed.

13. Consequently, the impugned LOC issued against the petitioner at the behest of respondent no.1/Bank of Baroda and respondent no.4/PNB, is quashed and set aside."

15. In view of the foregoing, the impugned LOC(s) is hereby quashed, subject to the petitioner furnishing an undertaking by way of an affidavit affirming that he shall:

i. continue to cooperate in any investigation and appear before the concerned 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 if requested from him by the investigating agencies, and as may be available within his power or possession.

16. Copy of the said affidavit of undertaking shall be served upon learned counsel for the respondents. It is made clear that any breach thereof by the petitioner, shall be treated as wilful disregard of orders passed by this Court.

17. The petition is disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

NOVEMBER 18, 2025
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