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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12061/2025**

Date of decision: **17.03.2026**

IN THE MATTER OF:

HIMANSHU LUTHRA

.....Petitioner

*(Through: Mr. Sanjay Kalra, Mr. Sameer Kalr, Mr. Vivek Sood,
Miss Rita Laha Advocates.)*

versus

UNION OF INDIA & ORS.

.....Respondents

*(Through: Mr. Ashish K Dixit, CGSC with Mr. Gautam Yadav, Mr.
Umar Hashmi and Ms. Iqra Sheikh, Advocates for R-1, 2 and 4.
Mr. Kalyan Babu Singh Advocate GP)*

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G E M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The instant petition is for the following reliefs:-

"1. Calling for the Records in respect of the impugned Office Memorandum dated 12.10.2018 bearing No.25016/10/2017 IMM(PT.) issued by the Government of India, Ministry of Home Affairs, Foreigners Division (Immigration Section), and quashing the same; and

2. Calling for the Records in respect of the impugned Look Out Circular issued against the Petitioner at the instance and behest of Union Bank of India, on the strength of the impugned Office Memorandum dated 12.10.2018, and quashing the same; and

3. Directing the Respondents, to Disclose and Issue Necessary



Intimations to the Aggrieved Parties regarding the opening of Look Out Circulars against them, and to provide a Post Decisional Hearing towards due and positive compliance of the Principles of Natural Justice and the Principles of Reasonableness and Fairness; and

4. Pass such other and] or further orders or direction in favour of the Petitioner and against the Respondents, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The facts of the case would indicate that the petitioner stood as a guarantor for credit facility obtained by Asia Lucky Industrial Ltd. (ALIL) from Union Bank of India. The petitioner also seeks to have executed charges over the properties situated in Hong Kong. It appears that Ministry of Home Affairs issued the impugned Office Memorandum dated 12.10.2018 empowering Chairmen/MDs/CEOs of Public Sector Banks to request issuance of Look Out Circulars (LOCs). Thereafter, the Union Bank of India declared ALILs loan account as Non-Performing Asset (NPA).

3. As per the case set up by the petitioner, the properties situated in Hong Kong have already been sold by the petitioner and certain amount has also been recovered. The petitioner, however, came to know in the year 2023 regarding opening of the LOC against him when he was to travel to Dubai. The petitioner, therefore, made various requests to the respondents-authorities for lifting of the LOC, however, no steps were taken. Hence, the petitioner has approached this Court by way of the instant writ petition.

4. On notice being issued, except respondent no.3, none of the respondents have filed their reply.

5. The material available on record would indicate that there is no investigation by any of the Investigating Agencies against the petitioner.



There arises no question of filing of any charge sheet or complaint. The petitioner has not yet been called upon by any of the Investigating Agencies to offer any information.

6. The LOC, therefore, seems to have been issued pursuant to the Office Memorandum of the year 2021. The said memorandum has been considered by the Division Bench of the High Court of Bombay in **Viraj Chetan Shah v. Union of India**.¹ The Division Bench of the High Court of Bombay set aside Clause no.6(B)(xv) empowering public sector banks for opening of the LOC. The said decision has also been considered by this Court in various subsequent orders and most recently in the case of **Vineet Gupta v. Bureau of Immigration & Ors.**,² the Court has held as under:-

*“10. The Bombay High Court, in the case of **Viraj Chetan Shah v. Union of India**,³ has struck down Clause 6(B)(xv) of the Guidelines of 2021 as bad in law on the ground of arbitrariness, unreasonableness, improper and invalid classification, and conferment/delegation of uncanalised and excessive power. This Court, has stopped short of striking down the said provision, but has followed the decision in **Viraj Chetan Shah** towards placing fetters on any unbridled invocation of Look Out Circulars under the same. Reference can be made to the decisions in **Rajesh Kumar Mehta v. Union of India** and **Prateek Chitkara v. Union of India** Vinay Mittal & Anr v. **Bank Of Baroda & Ors.***

*11. Placing reliance on the decision in **Viraj Chetan Shah**, learned counsel appearing for the respondents tries to explain the concept of economic interest. He asserts that the vast sum of public money which is due against the Company renders the present case within the scope of the term ‘detrimental to the economic interests of India’.*

12. However, at the outset, it is to be noted that according to respondents’ own affidavit, the impugned action has been initiated as a measure of

¹ 2024 SCC OnLine Bom 1195

² W.P.(C) 7726/2024 dated 22.01.2026

³ 2024 SCC OnLine Bom 1195



'abundant caution'. The Guidelines of 2021, nowhere, empower the authorities to take recourse to such a drastic action only as a measure of 'abundant caution'. There must exist sufficient material with the respondents to invoke action for opening of a Look Out Circular. The counter affidavit on behalf of respondent no. 2-bank is completely silent on these aspects.

13. Further, this Court has examined the power to issue Look Out Circulars on the ground that departure of the subject from India would be detrimental to the economic interests of India, in a plethora of cases, including in the case of **Rajesh Kumar Mehta v. Union of India**. The question for consideration before the Court was whether Look Out Circulars can be opened at the instance of banks only because of the failure on the part of a borrower to repay loans for which the LOC subject stood as a personal guarantor. After observing that the right to travel abroad has been recognized as an integral part of the fundamental right to liberty guaranteed under Article 21 of the Constitution of India by the Supreme Court in the case of **Maneka Gandhi v. Union of India** the Court held that banks cannot open a Look Out Circular as an arm-twisting tactic to recover debts, especially when the subject is not engaged in any fraud or in any siphoning off or defalcation of the amounts given as loan.

14. The Court also took note of the decision in **Prateek Chitkara v. Union of India**,⁴ wherein, the term 'detrimental to economic interest' used in Guidelines of 2021 has been analysed by the Court. The Court was of the opinion that the said term would include 'squandering of public money', 'siphoning off amounts taken as loans from banks', 'defrauding epositors', 'investing in hawala transactions' etc. It further held that Look Out Circulars cannot be issued in every case of bank loan defaults, etc. The relevant portion of the said decision is extracted below, for reference:

"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

⁴ 2023 SCC OnLine Del 6104



professional or a nonexecutive capacity. The circumstances have to reveal a higher gravity and a larger impact on the country.”

15. *While the dues against the Company is, of course, in respect of a large sum, regard has to be had to the fact that the petitioner has not been accused of any cognizable offence under the penal laws and the only reason for the issue of a Look Out Circular against him is the fact that he is a personal guarantor in respect of the loan. Further, while the case of respondent no. 2-bank is that the promoters/directors of the Company have siphoned of the money, it is not their case that the petitioner has also taken part in the same. This Court in its decision in **Anastasiia Pivtsaeva & Anr. v. Union of India & Ors.**⁵ has held that mere association or a familial relationship with an accused, absent any concrete material showing direct involvement or complicity in the alleged offence, cannot justify adverse action such as denial of security clearance or the continuation of coercive measures. In **Rajesh Kumar Mehta**, this Court, when faced with a similar situation, has held as follows:*

“25. Lookout Circular has been issued against the Petitioner only because of the inability of the company to repay its debts for which the Petitioner stood guarantee. There are no criminal proceedings against the Petitioner and there is no allegation that the Petitioner was instrumental in defalcation or siphoning off the money. The Bank has already initiated steps against the Petitioner and the company by taking steps under the RDDB Act, SARFAESI Act and under the IBC. This Court is of the opinion that after resorting to all the remedies available in law, the Bank cannot open a Lookout Circular as an arm-twisting tactic to recover debt from a person who is otherwise unable to pay more so when there are no allegations that he was engaged in any fraud or in any siphoning off or defalcation of the amounts given as loan.”

16. *Having considered the overall conspectus of the facts and situations, aspecially, in light of the fact that the petitioner was neither a director of the Company, nor was involved in any of its day to day functioning, and that the respondent-banks have already taken recourse to appropriate proceedings for recovery of the money, the Court finds that there is no justification for continuation of the impugned Look Out Circulars.”*

7. Having considered the overall facts and circumstances, there does not seem to be any justification to continue the LOC in question, and

⁵ 2024 SCC OnLine Del 5170



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accordingly, the same stands set aside.

8. The respondent-Bank is directed to pass a formal order and to inform the concerned authority.

9. With the aforesaid observations, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MARCH 17, 2026

Nc