

**IN THE COURT OF SHRI ARVIND KUMAR:
SPECIAL JUDGE, CBI-10:
ROUSE AVENUE DISTRICT COURTS: NEW DELHI**

CNR No. : DLCT11-001086-2019
Case No. : SC/16/2019
RC No. : 217-2013-A-0003
Branch : CBI/AC-VI(SIT)/New Delhi
U/Sec : 120B r/w 420 IPC and
Sec 7, 8, 9, 12 & 13(2) r/w
13(1) (d) of P.C. Act, 1988.
CBI v. S. P. Tyagi & Ors.

31.01.2023

ORDER

1. Vide this order, I will dispose of an application filed by accused No.4/applicant Gautam Khaitan for permission to travel abroad for six months.
2. CBI filed reply to the application.
3. I have heard Counsels for the parties.

4. Ld. Counsel for applicant/accused submitted that applicant is practicing as an Advocate in New Delhi for more than 30 years. He is a qualified and highly respected member of the legal community and society and his area of expertise is in joint venture, mergers and acquisitions and in most of the cases in which his law firm O.P. Khaitan & Company is engaged, the applicant is required to travel abroad in short notice.

5. Ld. Counsel for the applicant/accused submitted that on every occasion when applicant has been permitted to travel abroad , he has strictly complied with the conditions imposed by this court.

6. Ld. Counsel for the applicant/accused submitted that applicant's clients are based abroad and he frequently travels abroad in order to earn his livelihood and to meet his clients. It is submitted that the applicant has travelled abroad on numerous occasions for work.

7. Ld. Counsel for the applicant/accused submitted that the applicant moved application before the Ld. Predecessor of this Court seeking interalia permission to go abroad and the applicant /accused has been permitted to travel abroad on many occasions on certain terms and conditions. It is further submitted that since the grant of permission, the

applicant has travelled abroad many times and on none of the occasions there is any violation of any of the conditions by applicant.

8. Ld. Counsel for applicant/accused further submitted that applicant/accused is lawyer by profession and maintain his clientele all over India as well as abroad and is frequent visitor to abroad due to his professions requirement. It is submitted that applicant's law firm is majorly into corporate matters and for its business, requires to have good relations with various law firms abroad so that the work is referred to his law firm by the overseas corporates and applicant is planning to travel to countries, namely, Kazakshtan, Russia, Japan, Thailand, Indonesia, UAE, UK, Schengen Countries except Italy/Switzerland, Turkey, USA, Ghana, Tanzania, China, Hongkong, South Africa, Australia, Maldives and Saudi Arabia in coming months in order to meet local law firms in these jurisdictions for professional work.

9. It is submitted that the level and quality of the work of the applicant is such that neither it can be delegated nor electronic media like tele-conferencing nor video conferencing can suffice it more particularly in view of the clients's requirements concerns among others. This is especially when clients specifically desire that their legal advisor be present with them in negotiations as they may need advice then and there only on the issues raised on the spot. Also, the applicant has to

travel abroad on short notice due to nature of his professional work as well as to maintain the clientele.

10. It is further submitted that no prejudice will be caused to investigating agency if the applicant be permitted to travel abroad since the applicant had always been cooperating with them and no purpose would be served by preventing the applicant from travelling abroad as all the material sought to be collected by CBI is documentary in nature and nothing has to be recovered or discovered by or at the instance of applicant and there is no possibility to tamper the evidence or influence any witness.

11. It is further submitted that the applicant is respectful citizen of India having substantial assets in Delhi and there is no likelihood of the applicant absconding as the entire family of the applicant comprising of aged mother, wife, son and daughter in law reside in New Delhi and the applicant shall suffer irreparable loss and grave prejudice in case the applicant is not permitted to travel abroad.

12. On the other hand, Ld. SPP for CBI submitted that role of the applicant/accused Gautam Khaitan has been narrated in the Charge-sheet and is not being repeated here. It is submitted that the applicant/accused has vaguely mentioned that he needs to travel abroad for business purpose

while providing no documents to support any such requirement of his visit to any country.

13. It is submitted that another case registered vide RC 15(A)/2016 CBI AC-II, New Delhi is still under investigation including foreign aspects in several countries, namely, Brazil, Switzerland, Singapore, UAE, Austria and UK and if the application is allowed there is likelihood that the applicant/accused may remove/tamper with evidence and influence the witnesses. It is submitted that the applicant has failed to provide any specific reason for travel abroad.

14. Ld. Counsel for the CBI submitted that the applicant/accused is linked to highly influential and powerful persons, many of whom are abroad and there is a strong and reasonable apprehension that applicant may influence witnesses and tamper with the evidence since certain facts are in his personal knowledge. It is submitted that the application, if allowed, is detrimental to the sanctity of the further progress of the case.

15. I have gone through the material on record.

16. Charge-sheet has already been filed in the present matter. It is not disputed that CBI had initially issued LOC which was withdrawn by them and same is recorded in the order dated 15.01.2014 passed by my

Ld. Predecessor. The applicant/accused had been permitted to travel abroad number of times and he had complied with the conditions imposed by this Court vide different orders. It is not the case of the CBI that applicant/accused, at any point of time, had tried to contact any witness or had tampered with the evidence after grant of bail or on any occasion when he is permitted to travel abroad.

17. It is also noted that Hon'ble Delhi High Court vide order dated 09.04.2015 and 23.04.2015 had permitted the applicant/accused travel abroad to Philippines and London respectively and the CBI had raised similar apprehension before Hon'ble Delhi High Court that some of the evidence relating to this case was in UK and M/S Agusta Westland is situated in UK and accused may tamper with the evidence. However, Hon'ble Delhi High Court had permitted the accused/applicant to visit London subject to certain conditions. After registration of the FIR, the accused had visited different countries including London, Dubai, UAE, Singapore.

18. At this stage, it is relevant to mention that accused had stated before Hon'ble High Court that he would not visit Italy, Tunisia, Switzerland, Singapore, UAE, USA, British Virgin Island, Indonesia, Bahamas, Finland, UK, Israel and Mauritius. It is relevant to reproduce the

relevant portion of order dated 12.10.2017 passed by Hon'ble Delhi High Court in Crl. M.C. No. 3679/2017 :-

“Mr. Sidarth Luthra, learned senior counsel appearing for the respondent, on instructions from the respondent Mr. Gautam Khaitan, who is present in Court in person, submits that insofar as Schengen Visa countries are concerned, the respondent undertakes not to enter and visit Italy or Switzerland, however, the respondent may be permitted to visit the remaining Schengen Visa countries. He further submits that at this stage the respondent has no intention to travel the countries, namely, United Kingdom (U.K), Mauritius, Tunisia, UAE, USA, Singapore, British Virgin I Lands (BVI), Indonesia, Bahamas, Finland and Israel. However, the respondent may be given liberty to approach the concerned Court for variation of this order at an appropriate stage.

So far as request of learned senior counsel for the respondent regarding travel of the respondent to the remaining countries is concerned, the respondent is at liberty to move appropriate application before the Trial Court concerned for giving specific reasons for his visit to the said countries”.

19. It is noted that for visit to aforesaid thirteen countries, the accused need to give specific reasons.

20. Now, accused wants permission to visit Kazakshtan, Russia, Japan, Thailand, Indonesia, UAE, UK, Schengen Countries except Italy/Switzerland, Turkey, USA, Ghana, Tanzania, China, Hongkong, South Africa, Australia, Maldives and Saudi Arabia in coming months in order redevelop relations and to meet local law firms to redevelop business for his law firm and applicant's law firm requires to have good relations with various law firms abroad so that the work is referred to his law firm by the overseas corporates. The reasons assigned by applicant/accused necessitating his visit to these countries including Indonesia, UAE, UK, USA are justified reasons.

21. Almost 9 years have passed since the registration of FIR. The chargesheet and two supplementary chargesheets have already been filed. Here it also needs to be mentioned that accused has been granted permission to visit different countries subject to certain conditions which have been complied with by the accused.

22. **Thus, keeping in view the facts and circumstances, the applicant/accused Gautam Khaitan is permitted to travel abroad to**

countries, namely, Kazakshtan, Russia, Japan, Thailand, Indonesia, UAE, UK, Schengen Countries except Italy/Switzerland, Turkey, USA, Ghana, Tanzania, China, Hongkong, South Africa, Australia, Maldives and Saudi Arabia for a period of four months subject to following conditions:

- a) That applicant/accused shall furnish additional security in the form of bank guarantee in the sum of Rs.25 lacs or in the alternative an FDR in the like amount.*
- b) That applicant/accused shall furnish a detailed affidavit with advance copy to the CBI disclosing his detailed programme including his stay at various stations abroad and telephone numbers, e-mail address and residential address before his departure on each occasion.*
- c) That he shall intimate the court 48 hours prior to leaving and within 48 hours of his return from abroad on each occasion.*
- d) That applicant/accused shall produce his surety/sureties in the court to give his/her statement that surety has no objection in case applicant/accused is allowed to go abroad any number of time during four months.*

e) The applicant/accused shall join investigation within 48 hours of his informing in this regard by the Investigating Officer.

f) That applicant will file complete self attested copy of his passport alongwith copy of Visa in the court on his return from abroad.

g) The applicant/accused will not contact/influence the prosecution witnesses during this period.

h) In case of any of the above conditions are violated, the bank guarantee/FDR will be forfeited to the state.

23. In view of the facts and circumstances, the application filed by accused is accordingly disposed of.

24. LOC, if opened, against the accused shall remain suspended/withdrawn during these four months.

25. Copy of this order be given dasti to IO.

26. The copy of the order be also sent to the Joint Director, Immigration Office, IB Office, R. K. Puram, New Delhi.

Copy of the order be given to concerned parties.

(ARVIND KUMAR)
Special Judge (PC Act) (CBI)-10
Rouse Avenue Courts Complex
New Delhi/31.01.2023/mb