IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, AHMEDABAD (RURAL)

ORDER BELOW EXHIBIT – 70 IN PMLA CASE NO.13 OF 2023

1. The applicant – original accused no.23 in the above PMLA Case No.13/2023 has filed this application with a prayer to rescind LOC issued against him by the Enforcement Directorate in the above referred prosecution complaint. It is also prayed that, during the pendency of this application, LOC be suspended against the applicant – accused and he be permitted to travel abroad by imposing condition about prior intimation to Enforcement Directorate as well as the Hon'ble Court with permission on producing travel itinerary.

2. Learned Advocate Mr.F.S.Sipai for the applicant - accused submits that applicant is senior citizen aged about 61 years and is permanently residing with his family at Mumbai. He is a businessman having his roots in the society. His assets and business are situated in Mumbai. The applicant is promoter of Flemingo Group of Companies which runs duty free shops at 18 airports/seaports in India and 54 International airports/seaports in the entire world. The business of the applicant requires frequent international travels at very short notice. The applicant during period from 2017 to 2025 has travelled abroad for more than 40 times for business purpose for short duration of two days to fifteen days and he has returned back. The applicant in these circumstances cannot be said of having any flight risk and his

abroad travel at no point of time has been undertaken by the applicant to avoid appearance before the investigating agency.

2.1 It is submitted that one complaint dated 07/02/2022 filed by CBI came to be filed against ABGSL and its Directors / Promoters, wherein, applicant is not named as an accused. It is further submitted that on the basis of FIR registered by CBI, the opponent – Enforcement Directorate registered ECIR No. ECIR/AMZO/11/2022 against ABGSL and its Directors / Promoters and in the said case also the applicant was not named as an accused. The applicant is not related to ABGSL. The applicant was called by the Enforcement Directorate during March to July 2022 and he remained present before the Enforcement Officer and cooperated the investigation and had provided all the necessary documents as required by the Enforcement Directorate and its for this reason Enforcement Directorate did not arrested the applicant till prosecution complaint / chargesheet came to be filed on 19/10/2023. Even the prosecution complaint do not allege that applicant did not cooperated the investigation. He is not a prime or main accused in ABGSL and is shown as Accused No.23 in the prosecution complaint. The Special Court has taken cognizance of Enforcement Directorate's prosecution complaint on 25/11/2023. Inspite of this fact at no point of time the applicant tried to run away from investigation or trial, the Enforcement Directorate got LOC issued on 19/10/2023 against the applicant for no genuine reasons which necessitated Look Out Circular. It is further stated that even after issuance of LOC, the applicant after getting permission from the Hon'ble High Court of Gujarat has travelled abroad for business purpose during December 2023 upto

September 2025 and has returned back within time period. Learned Advocate has drawn the attention of the Court towards the prosecution complaint (Annexure – 2), order passed by the Hon'ble High Court of Gujarat (Annexure – 3) in support of the above contention.

2.2 It is further submitted that, LOC is issued by the investigating agency to ensure presence of accused during investigation period. It is a coercive measure to secure presence of accused during investigation or before the trial court after non-bailable warrant is issued due to non-appearance of accused. Learned Advocate has also placed reliance on the consolidated guidelines for issuance of LOC issued by Ministry of Home Affairs vide Office Memorandum dated 22/02/2021 (Annexure – 4).

2.3 It is stated that in the schedule offence case, SFIO had got LOC issued against the applicant on the basis of four prosecution cases, in which in two cases, the applicant was not an accused at all and inspite of the fact that investigation in other two cases i.e. ITNL and IMICL was completed and prosecution complaint was filed yet SFIO was not willing to cancel or withdraw LOC and therefore, applicant had applied before the Special SFIO Court to rescind the LOC wherein, the Hon'ble SFIO Court, Mumabi vide order dated 19/12/2025 has passed an order suspending the LOC for two years (Annexure – 6). It is further submitted that in SFIO cases prior to the last order by SFIO Special Court, the applicant had sought permission of the Hon'ble Mumbai Court for travelling abroad from September 2024 to September 2025 and on all occasions the Hon'ble High Court of Mumbai had permitted the applicant to travel abroad in various countries and in turn the applicant has abided all the conditions including timely returns. By raising the contention as mentioned hereinabove, it is submitted that the applicant during the period of last three years has never been at flight risk, the prosecution complaint is filed before the Special Court and cognizance is taken, there is nothing on record to show that the applicant has ever committed any breach or evaded cooperation to the I.O. and in these set of facts, the LOC issued against the applicant in the present prosecution complaint filed by the Enforcement Directorate is required to be rescinded. Reliance is placed on the consolidated guidelines issued by Ministry of Home Affairs and decision of the Hon'ble Telangana High Court order dated 28/09/2022 in Writ Petition No.37448/2022 wherein, the LOC was quashed as the said person had cooperated the investigation and chargesheet was filed before the trial court and LOC was continued without any basis.

2.4 Against reply filed by the Enforcement Directorate (Exh.73), applicant – accused no.23 has filed rejoinder vide Exh.74 and further rejoinder vide Exh.81. It is stated that the Enforcement Directorate has highlighted the entire prosecution case to prejudice the Hon'ble Court, which are not the relevant consideration for grant or refusal of the application rescinding of LOC. The applicant – accused has cooperated the investigation and has appeared before the Enforcement Directorate and has provided all the necessary documents and the said fact is not denied. Enforcement Directorate had issued summons for appearance of the applicant on 24/02/2026 before the Enforcement Directorate. As the applicant was unable to appear on 24/02/2026, he has informed Enforcement Directorate on 23/02/2026 about is inability and had requested to permit him to appear on 03/03/2026 which was allowed and accordingly, the applicant had remained present before the Enforcement Directorate. Since last three years, the applicant has been travelling in various countries and have returned back and nothing is brought on notice by the Enforcement Directorate with regard to any brach of conditions. The apprehension of the prosecution that the applicant would evade is misleading statement, as the applicant has got his entire roots including business and family at Mumbai and further assures that he will not travel without prior intimation to the Hon'ble Court as well as the prosecuting agency – Enforcement Directorate. It is urged that considering the guidelines for issuance of LOC coupled with the conduct of the applicant – accused and there being no breach at any point of time on part of applicant – accused, the LOC may be rescinded by putting any conditions. In support of his arguments Learned Advocate for the applicant has relied on written note of arguments of the applicant vide Exh.75.

3. Learned Special Public Prosecutor Mr.S.V.Thakkar appearing on behalf of opponent - Enforcement Directorate submits that the ECIR came to be registered on the basis of case registered by CBI against the ABG Shipyard Ltd., its Chairman, Managing Directors and others wherein, the accused persons have indulged themselves in causing wrongful loss to the tune of Rs.22,842/- Crores to the consortium of banks. The investigation reveals that the present applicant had retained funds of ABG group in the name of liquidated damages. Statement of applicant recorded by the Enforcement Directorate reveals the funds

received from the ABG group of companies was returned back within a day at the instructions of ABG group of companies. The applicant was arraigned as an accused as he has indulged himself in layering and diversion of funds from ABG group of companies. The applicant has retained an amount of Rs.63.12 Crores out of the funds received from and returned back in the name of liquidator damages. The property to the tune of Rs.19.90 Crores has been attached as value of proceeds of crime. The investigation is going on to trace out the remaining proceeds of crime and therefore, LOC should not be rescinded.

3.1 It is stated that LOC came to be issued against the applicant as a preventive mechanism to secure the presence of applicant and to ensure that he do not leaves the jurisdiction without intimation or authorization. Mere temporary compliance do not extinguish possibility of his evasion once such supervision is relaxed and therefore, the LOC be continued in the interest of justice, to secure the presence of applicant for the purpose of investigation as well as during the trial. Learned Special Public Prosecutor Mr.S.V.Thakkar has placed reliance on the reply (Exh.73) filed by the Assistant Director, Directorate of Enforcement and accordingly urged to reject the application.

4. Heard Learned Advocates for the respective parties. By way of this application, the applicant – accused is seeking relief to rescind the LOC issued against the applicant by the Enforcement Directorate in connection with the Prosecution Complaint Case No.13 of 2023. The applicant is shown as Accused No.23 in the above prosecution complaint filed by the Enforcement Directorate. It prima facie reveals from the case

papers that the implication of the applicant in the offence is on the basis that he has been indulged in layering of the proceeds of crime. The prosecution complaint came to be filed on 19/10/2023. Initially, the FIR No.RC2232022A0002 was registered by CBI AC-V, New Delhi against against ABGSL and others alleging crores of rupees of wrongful loss to the consortium of banks. On completion of investigation by CBI, Delhi chargesheet was filed before the competent District & Sessions Judge, Rouse Avenue Court (RAC), New Delhi. On the basis of schedule offence registered by CBI, ECIR No. ECIR/AMZO/11/2022 dated 15/02/2022 came to be registered, wherein, the applicant is shown as Accused No.23. As per the prosecution complaint, the applicant and his company Bermaco Energy Systems Ltd. was involved in diversion of funds and thereby, involved in process of money laundering.

5. It prima facie appears that the applicant has cooperated the Enforcement Directorate by appearing before the I.O. and has provided the required documents by Enforcement Directorate. The applicant has not been arrested by Enforcement Directorate till filing of prosecution complaint before the Special Court on 19/10/2023. It is also not in dispute that no NBW has been issued against the applicant. The applicant is stated to have travelled abroad around 39 times from 2017 onwards. After issuance of LOC in the year 2023, the applicant has travelled abroad after seeking necessary permission of the Hon’ble High Court and has strictly adhered to the conditions imposed upon him. It also appears that another LOC issued by SFIO in Mumbai case, the applicant was granted permission to travel abroad by the Hon’ble Bombay High Court. It is stated by the applicant that the Special

SIFO Court, Mumbai has suspended LOC for a period of two years vide order dated 17/12/2025 and he has been permitted to travel abroad by giving seven days notice. Nothing is brought on record by the opponent – prosecuting agency with regard to any breach of conditions or misuse of his liberty. Even after filing of the application, the applicant was summoned by the Enforcement Directorate and he has remained present and cooperated the investigation and the said fact is confirmed from the Enforcement Directorate also. The Court has also noted the fact about applicant – accused having his business and residence at Mumbai and looking to the nature of business and past travel history he would be required to visit abroad frequently. It is stated that the applicant has never evaded trial nor he has made any attempt to escape from the clutches of law. A statement has been made at bar on instructions by the learned advocate appearing on behalf of applicant that the applicant will remain present as and when required before the Investigating Officer as well as this Court and the trial will not get delayed on any count due to absence of applicant – accused and he is ready to file undertaking to that effect.

6. The Court has also taken into consideration the Office Memorandum dated 22/02/2021 issued by Government of India, Ministry of Home Affairs, Foreigners Division (Immigration Section) while considering the present application. The Office Memorandum has noted questions framed by the Hon'ble High Court of Delhi in case of ***"Sumer Singh Salkan Vs. Asst. Director & Ors."; Judgment dated 11/08/2010 in W.P. (Crl.) No.1315/2008*** and guidelines by the Hon'ble High Court of Delhi as noted in Para 3 & 4 of the Office Memorandum which

specifically states that LOC can be withdrawn by the authority that issued it and can also be rescinded by the trial court where the case is pending or having jurisdiction over concerned Police Station and on an application by the person concerned. The Hon'ble High Court of Delhi in case of ***"Shivani Saxena Vs. Directorate of Enforcement & Anr." Judgment dated 22/03/2022 in W.P. (C) 8084/2020 & CM APPL. 11855/2022*** has held that since the prosecution complaint has been filed, writ petition is not maintainable and petitioner must seek relief from Special Court regarding LOC and permission to travel abroad.

7. In view of case laws cited hereinabove, considering the fact that the applicant is shown as Accused No.23 in the prosecution complaint which is filed on 19/10/2023 and the PMLA Case No.13/2023 is pending before this Court since the year 2023, the applicant has cooperated the investigation and even recently when he was summoned by the Enforcement Directorate he has remained present and cooperated the investigation and said fact of cooperation is confirmed from the prosecuting agency by this Court, applicant – accused has travelled abroad after getting permission from the Hon'ble High Court of Gujarat and Hon'ble High Court of Bombay and has returned back and complied all the conditions and no attending circumstances about non-compliance of any attempt to evade / escape the investigation or trial has been placed on record and considering the Office Memorandum dated 22/02/2021 issued by Government of India, Ministry of Home Affairs, Foreigners Division (Immigration Section), decisions of the Hon'ble Delhi High Court, present application deserves to be allowed by imposing suitable stringent conditions on the applicant – accused

so as to ensure and secure the presence of applicant – accused during investigation and/or trial as the prosecution has raised concern about presence of applicant – accused if LOC is set aside by the Court and accordingly following order is passed in the interest justice.

ORDER

1) The present application (Exh.70) is **allowed**.

2) The Look Out Circular (LOC) issued against the applicant – accused at the behest of opponent – Directorate of Enforcement, Ahmedabad is hereby rescinded subject to following conditions:

   i. The applicant shall deposit Rs.5,00,000/- in Cash or in manner of FDR before the Registry of this Court;

   ii. In the event of need arise to travel abroad applicant – accused shall furnish complete details of his flight (departure & arrival), proposed travel itinerary, including dates of departure and return, contact details, place of resience of foreign countries to the opponent - Directorate of Enforcement as well as to this Court at least seven days in advance of each travel;

   iii. If the opponent – Directorate of Enforcement gives an intimation to the applicant – accused for appearing before it, the applicant shall report ot the Investigating Agency and cooperate in the investigation.

   iv. The applicant shall give undertaking to this Court that he shall remain present at the time of conducting the trial as and when his presence is required and the trial shall not be hampered on account of his non-availability or absence and the applicant – accused shall not seek unnecessary adjournments in any proceedings before any authority and/or court on the ground that he is abroad.

v. Applicant – accused is directed to file an undertaking in terms of the aforementioned directions within a week with an advance copy to the opponent – prosecuting agency – Directorate of Enforcement.

vi. In the eventuality of breach of any of the conditions mentioned hereinabove or non-cooperatiion, the amount deposited by the applicant – accused as surety will stand forfeited and applicant – accused shall be visited with such consequences as may be deemed fit and appropriate.

Pronounced and signed in the open court today.

Date :06/05/2026
Place:Ahmedabad

(Kamal M. Sojitra)
Principal District & Sessions Judge &
Designated Special Judge (PMLA)
Ahmedabad (Rural)
U.I.Code No.GJ01494

AVJ