Blacklist and Look Out Circular

Why in news?

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Jaspal Atwal, an earlier blacklisted Khalistani militant, was invited to a dinner honouring Canadian PM Trudeau.

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What is a blacklist?

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- It is a list of persons against whom a “look out circular” (LOC) has been issued.
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- It could contain the names of both Indian citizens and foreigners.
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- The blacklist is maintained by the Foreigners Division of the Ministry of Home Affairs (MHA).
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- It is sent to all Indian diplomatic missions across the world, as well as to immigration checkposts within the country.
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- The list is reviewed from time to time, with name of individuals being added or deleted.
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- This is done on the recommendations made by central agencies or state police.
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- At present, there are nearly 30,000 individuals, including foreign nationals, in the blacklist database, pruned from 38,000 in 2016.
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What is an LOC?

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- A “look out circular” (LOC) is a coercive measure used by the investigating agencies and the courts.
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- It is used to compel the suspects who are awaiting trial to surrender.
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What is the procedure?

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- **Authorities** - The authorities on whose request an LOC can be issued include the:
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i. Ministry of External Affairs
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ii. Customs and Income-Tax departments
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iii. Directorate of Revenue Intelligence (DRI)
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iv. Central Bureau of Investigation (CBI)
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v. regional passport officers
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vi. police authorities in various states
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vii. International Criminal Police Organisation, commonly known as Interpol.
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- **Procedure** - The agencies are supposed to follow a process before requesting an LOC.
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- The investigators must submit a written request to an **officer notified by the Ministry of Home Affairs**.
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- The request should provide details regarding the individual’s involvement in a crime.
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- The officer, among others, should not be below the rank of:
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i. deputy secretary to the Government of India
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ii. joint secretary in a state government
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iii. superintendent of police at the district level or in CBI/NIA
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iv. zonal director in NCB
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v. deputy commissioner in DRI
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vi. assistant director of Intelligence Bureau or bureau of immigration
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vii. deputy secretary in R&AW
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viii. assistant director of Enforcement Directorate
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- LOCs can also be issued on the direction of any **criminal court** in India.
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- In a 2010 Delhi High Court verdict, it was observed that a **request** for issuance of LOC **cannot emanate from a statutory body.**
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- **Validity** - Unless specified, an LOC is valid for one year.
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- However, agencies concerned are allowed to make a request to immigration authorities for the extension of an LOC before its expiry.
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What are the cases eligible for LOC?

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- Investigating agencies can approach immigration authorities for issuance of an LOC in certain cases.
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- These include offences recognised by the Indian Penal Code (IPC) or other penal provisions.
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- Also, when the accused/suspect is deliberately evading arrest or not

appearing for trial in court.
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- The evasion should be in spite of a non-bailable warrant and similar coercive measures.
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- LOC can also be issued when there is a likelihood of the suspect leaving the country to evade trial or arrest.
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- However, in cases where the offence is not recognised by the IPC, LOC cannot be issued to prevent the individual from leaving the country.
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- In such cases, the agencies can only ask to be informed about the arrival or departure of these individuals.
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What are the legal remedies?

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- The blacklisted individuals can approach a court or the competent officer, who issued the LOC, for its withdrawal.
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- However, according to legal experts, it is more advisable to cooperate with investigating agencies.
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- **Role of a subordinate court** - An LOC can be issued on the basis of a non-bailable warrant by a subordinate court.
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- In this case, a cancellation of that warrant by the court will make it invalid.
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Source: The Indian Express

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