

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 795 of 2026

Reserved on: 18.09.2026

Date of Decision: 29.09.2026.

Bijender Kumar

.... Petitioner

Versus

State of H.P. & Ors.

.... Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : M/s Manjit Singh and
Virbahadur Verma, Advocates.

For Respondents No.1 & 2/State: Mr Jitender Sharma, Additional
Advocate General.

For the Respondent No.3/CBI : Mr Janesh Mahajan, Standing
Counsel.

For the Respondent No.4 : Mr Digvijay Singh, Advocate.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for quashing of the notice under Section 91 of the Code of Criminal Procedure (CrPC) issued by Kangra Police to the Branch Manager, Punjab National Bank, Mohana Branch, Panipat Circle, Haryana, in FIR No. 41, dated 05.05.2022, registered at Police Station

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Gaggal, District Kangra, for the commission of offences punishable under Sections 420 and 120B of the IPC, vide which the respondent No. 4/Punjab National Bank was directed to debit freeze the petitioner's bank account.

2. It has been asserted that the petitioner is maintaining an account with Punjab National Bank, Mohana Branch, District Sonipat, since 2019. The petitioner and his family members have agricultural land measuring 11 acres at village Kami, Sonipat and have sufficient income from it. He had filed an income tax return showing the income. The petitioner had set up an online exam centre at Gaggal. The written examination for the recruitment of Constable in Himachal Pradesh Police was conducted on 27.03.2022. An FIR No. 41 was registered regarding the examination. The police arrested the petitioner. The case was subsequently transferred to the Central Bureau of Investigation (CBI), which has filed the charge sheet before the Court. A notice under Section 91 of CrPC was issued to the Branch Manager, Punjab National Bank, Mohana Branch, to debit-freeze the petitioner's bank account. The order was without any authority, as Section 91 of the CrPC does not empower the police to debit-freeze the bank account. The jurisdiction is vested under Section

102 of the CrPC, but the Magistrate has to be informed while exercising this jurisdiction. This requirement has not been complied with. Hence, it was prayed that the present petition be allowed and the order passed by the Investigating Officer be quashed.

3. The petition is opposed by filing a reply by respondents No. 1 and 2 asserting that the police had received reliable intelligence that certain candidates had obtained prior access to the question papers of the police constable recruitment examination in exchange for a substantial amount of money. Gaurav Kumar had got the examination paper solved before the examination at the centre being run by the petitioner. The police registered the FIR, and it was found that the petitioner had collected a huge amount of money from the candidates for providing the question paper for the written examination in the basement of his institution and asked the candidates to memorise the paper on the intervening night of 26/27.03.2022. The police made a request to debit freeze the petitioner's account. The Investigating Officer had reasonable grounds to suspect that the amount lying in the account was connected with crime and constituted proceeds of the crime under investigation.

The order was passed to preserve the proceeds of the crime till the initiation of the legal proceedings before the Court. The Investigating Officer had not invoked the jurisdiction vested in him under Section 102 of the CrPC, which is merely a procedural irregularity and does not prejudice the petitioner. Therefore, it was prayed that the present petition be dismissed.

4. Respondent No. 4/CBI filed a separate status report asserting that the question paper for the recruitment of constable in HP Police was made available to candidates one day before the scheduled examination at the centre being run by the petitioner. The petitioner had taken the building on rent where the examination paper was disclosed to the candidates, and they were asked to memorise the answers. It was found that petitioner Bijender Kumar alias Suraj had received various amounts from different candidates or their parents. The CBI conducted the investigation and filed the charge sheet before the competent Court of law. The money received by the petitioner was the proceeds of the crime. Therefore, it was prayed that the account be not de-frozen or the bank be directed to retain ₹20,00,000 /- in the account.

5. I have heard M/s Manjit Singh and Virbahadur Verma, learned counsels for the petitioner, Mr Jitender Sharma, learned Additional Advocate General for respondents No.1 and 2/State, Mr Janesh Mahajan, learned standing counsel for respondent No.3/CBI and Mr Digvijay Singh, learned counsel for respondent No.4/PNB.

6. Mr Manjit Singh, learned counsel for the petitioner, submitted that the Investigating Officer had issued an order under Section 91 of the CrPC, which does not empower the Investigating Officer to debit freeze the account. The order was passed without jurisdiction. Hence, he prayed that the present petition be allowed and the order passed by the Investigating Officer be quashed. He relied upon the following judgments in support of his submission.

- (i) *Nevada Properties Pvt. Ltd. Vs. State of Maharashtra* 2019 (4) RCR (Crl.) 592:
- (ii) *Aeronfly International Pvt. Ltd. vs. State of H.P.* 2024 NCHHC 8338
- (iii) *State of West Bengal vs. Anil Kumar Dey* 2025 INSC 1413
- (iv) *Raghbeer Singh Dhillon vs. State of Uttarakhand and Ors* Criminal Appeal No. 8730 of 2024, decided on 12.01.2024; and
- (v) *Bijender Kumar vs. State of H.P. and Ors.*

7. Mr Jitender Sharma, learned Additional Advocate General for respondents No. 1 and 2, submitted that the Investigating Officer had committed a procedural lapse in ordering the debit freeze of the account under Section 91 of the CrPC. This jurisdiction is vested in Section 102 of the CrPC. Mere mentioning of the wrong provision does not invalidate the order. The order has not caused any prejudice to the petitioner. Therefore, he prayed that the present petition be dismissed.

8. Mr Janesh Mahajan, learned standing counsel for respondent No.3/CBI, submitted that the CBI investigated the matter and found that the petitioner had received the proceeds of the crime. The money is required for proving the offence. Therefore, he prayed that the present petition be dismissed.

9. Mr Dig Vijay Singh, learned counsel for respondent no.4/PNB, submitted that the bank had complied with the directions issued by the Investigating Officer and would abide by any direction issued by this Court.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

11. Section 91 of the CrPC empowers a Police Officer to issue a summons or written order to the person in whose possession a document or thing is believed to be, requiring him to attend and produce it at the place and time specified in the summon/order. Therefore, the Section does not empower the Investigating Officer to debit freeze the account, but merely empowers him to cause the production of the documents or thing which is required for investigation. This Court held in *Aeronfly International Private Ltd.* (supra) that Section 91 of CrPC does not empower the Investigating Officer to debit freeze the accounts. It was observed:

10. Having perused the aforesaid provision of law, this Court is persuaded to agree with Mr Aditya Mishra, learned counsel representing the petitioner, that the Investigating Officer had no power to order debit freeze of the bank account of the petitioner while issuing notice under Section 91 Cr.P.C., which otherwise empowers the Investigating Officer to cause production of any document or other thing, which is deemed to be necessary/desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code. In the instant case, Cyber Cell, after having received a complaint with regard to fraud committed upon the complainant, namely Sahil Sharma, straightaway issued notice under Section 91 Cr.P.C. to ICICI Bank, Kullu, thereby requesting to debit freeze the bank account of the petitioner in ICICI Bank situate at Pali, Rajasthan, which was not permissible.

12. The Hon'ble Supreme Court also held in *Raghbeer Singh Dhillon* (supra) that the Investigating Officer does not have the jurisdiction under Section 91 of the CrPC to debit freeze the account. However, this jurisdiction can be exercised by the Investigating Officer under Section 102 of the CrPC. But an intimation has to be given to the police. Where no intimation was given to the police, the order was bad. It was observed:

5. Before the High Court, on behalf of the State, it was submitted that the said "freeze order" had not been reported to the Magistrate. In the decision of the High Court, however, the said act of the police has been described as "seizure".

The order directing the bank to freeze the account was issued in the month of July 2022. The writ petition was instituted on 24.08.2022, after the appellant was informed of such order on 08.08.2022. The High Court disposed of the writ petition, directing the concerned police officer to report the seizure to the Magistrate. Liberty was preserved for the present appellant to apply for interim relief under Section 457 of the 1973 Code. The order of the High Court was passed on 27.08.2022. The present appeal has been filed in this Court on 14.09.2022, and this Court had stayed the operation of the impugned order on 26.09.2022. No material has been shown to us by any of the parties to demonstrate that prior to the granting of the order of stay by this Court, the police had reported the seizure (or the "freeze order") to the Magistrate.

6. Learned counsel for the State concedes before us that the notice was wrongly described as one under Section 91 of the 1973 Code and it was actually a notice under Section 102 of the 1973 Code. But on that count also, the appellant has argued that the provisions of Section 102 of the 1973

Code have also not been complied with, in that no reporting of such freeze order has been made to the Magistrate, as contemplated in sub-Section (3) of the said provision. Per se, failure to report such freeze order may not always be fatal, but in this case, in spite of a chance being given, the police authorities do not appear to have made any such report.

13. The judgments in *Anil Kumar Dey* (supra) and *Nevada Properties* (supra) deal with the scope of the jurisdiction vested in the Investigating Officer under Section 102 of CrPC, which does not arise in the present case and there is no necessity to discuss them.

14. Therefore, in view of these precedents, the Investigating Officer does not have jurisdiction to debit freeze the account under Section 91 of the CrPC.

15. No other point was urged.

16. In view of the above, the present petition is allowed, and the order passed by the Investigating Officer to debit-freeze the petitioner's account is ordered to be set aside. However, this order will not prevent the Investigating Officer from exercising the jurisdiction vested in him under any other provision of law, if permissible

17. The observations made hereinbefore shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

29th September, 2026
(Nikita)