

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO. 53 OF 2020
WITH
WRIT PETITION NO. 54 OF 2020**

Sadashiv Durgaprasad Pandey

@ Mehul Pandey

..Petitioner

VS.

The State of Maharashtra and another

..Respondents

Mr. Gajendra Jadhav a/w Mr. K. D. Shuka for the Petitioner.

Mr. Y. M. Nakhwa, APP for the Respondent No.1-State.

Mr. H. S. Venegavkar for Respondent No.2-CBI.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 3, 2023

P.C. :

1. Heard learned counsel for the Petitioner, learned APP for the State and learned counsel for the Respondent No.2.

2. The challenge in these Writ Petitions is to the impugned orders passed by the trial Court rejecting the application made by the Petitioner to de-freeze the bank account of the Petitioner. The impugned orders were passed as far back on 04.10.2019 and 27.09.2019. I am informed that during the pendency of these Writ Petitions some of the accused have filed applications for discharge.

3. Learned counsel for the Petitioner submitted that the account should be de-frozen only on the ground of non-compliance of Section 102 of the Code of Criminal Procedure (hereafter "Cr.P.C.", for short). It is submitted that in terms of sub-section (3) of Section 102 of the Cr.P.C. the Respondents should have acted under sub-section (1) of Section 102 by reporting the seizure to the Special Court having jurisdiction forthwith and therefore, this breach is such that the application for de-freezing deserves to be allowed on this ground alone.

4. Mr. Venegavkar, learned counsel for the Respondent No.2 submitted that such a ground was not raised before the trial Court and it is raised for the first time before this Court.

5. I have gone through the impugned orders. Considering the nature of the allegations, it was indicated by me that it would be appropriate if this contention regarding non-compliance of Section 102 of the Cr.P.C. is raised before the trial Court in the first instance.

6. Learned counsel for the Petitioner therefore sought instructions and prayed that he may be permitted to raise this ground before the trial Court, however, he requests that in view of the financial conditions faced by the Petitioners, the hearing of the application/s be expedited.

7. Considering the distance of time from the date when the impugned order is passed, in my opinion, liberty could be granted to the Petitioner to file a fresh application for de-freezing of the account by raising all permissible grounds including the ground as regards non-compliance of Section 102 of the Cr.P.C. which application/s if made shall be considered by the trial Court on its own merits and in accordance with law without being influenced by the observations made in the impugned order within a period of eight weeks from the date of the application/s.

8. It is made clear that I may not be construed to have made any observations on the merits or otherwise of rival contentions. All contentions are kept open.

9. Writ Petitions are disposed of.

(M. S. KARNIK, J.)