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WPA 22813 of 2023

Pradip Kumar Burnwal
-vs-
The State of W.B. & ors.

Mr. Sobhon Majumder
Mr. Swagata Biswas
...for the petitioner

Mr. K. N. Nabi
Ms. Tuli Sinha
....for the State

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is neither an accused nor a witness in respect of the case at hand. In his account, a sum of Rs. 43,726/- had come. This led to the blocking of that account by the banker namely, Ujjivan Small Finance Company on 05.02.2023. After inquiry, the petitioner came to learn that the freezing of the account was done in pursuance of a criminal case. It was learnt that a notice under Section 91 was issued to the banker. It is a settled position of law that by issuing a notice under Section 91 of the Code, one cannot freeze a bank account.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. As per the NCRB guidelines, any victim of Financial Cyber Fraud can dial the helpline number or report the incident to the portal. On

receipt of complaint, the designated police officers will quickly examine the matter and after verification, report to the concerned Bank for blocking the money involved in the Financial Cyber Fraud. Accordingly, upon receiving a complaint on such portal, the bank account of the petitioner was frozen on 05.02.2023. But, the notice under Section 91 was given to the banker much later i.e., on 07.06.2023. This has no connection with the freezing of the account. The petitioner came to the Cyber Crime Police Station with his learned advocate, but could not explain the receipt of Rs. 43,726 in his account.

It appears that as of now, the petitioner is not an accused in this case. At best, he could be a witness in it. Yet, his bank account with the Ujjivan Small Finance Bank is being kept frozen since 05.02.2023 on the ground that a fraudulent sum of Rs. 43,726/- had been deposited in the said account.

Let the petitioner furnish a bank guarantee to the tune of such sum with a bank authorities within a fortnight from this date and immediately intimate the Investigating Officer of the case about the same. Thereafter, the Investigating Officer shall forthwith direct the bank to defreeze the account in question.

No further order need be passed in this regard.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be

supplied to the parties, if applied for, as early as possible.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)