



W.P.(MD).No.13515 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.13515 of 2023

N.Murugan

... Petitioner

Vs

1. The District Collector,
Trichy District, Trichy.

2. The Commissioner of Police,
Trichy District, Trichy.

3. The Inspector of Police,
Somarasampettai Police Station,
Somarasampettai, Trichy District.

4. The Branch Manager,
Karur Vysya Bank Limited, Karumandapam
Branch, Trichy, Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to de-freeze the petitioner's bank account bank account number 1661155000029002 on the file of the 4th respondent herein based on the petitioners representation dated 02.05.2023.

For Petitioner : Mr.M.Suresh

For Respondents : Mr.D.S.Nedunchezian (R1)
Government Advocate



WEB COPY



W.P.(MD).No.13515 of 2023

Mr.K.Gnanasekaran (R2,R3)
Government Advocate (Crl.Side)

Mr.V.Sukumar (R4)

ORDER

The present writ petition has been filed seeking a direction to the respondents to de-freeze the petitioner's bank account number 1661155000029002 on the file of the 4th respondent.

2.Heard, the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the 1st respondent, the learned Government Advocate (Crl.Side) appearing for the respondents 2 and 3 and the learned counsel appearing for the 4th respondent. Perused the materials on record.

3.The third respondent had registered a criminal case in Cr.No.363 of 2021 against the petitioner, for the offence under Sections 8(c), 20(b)(ii)(B) of NDPS Act and subsequently, he was detained under Act 14, 1982 by the order of the first respondent. However, the same was quashed as per the order of this Court on 25.04.2022 in H.C.P(MD) No.1552 of 2021. The petitioner



W.P.(MD).No.13515 of 2023

has sold one of his property on 24.04.2023 by executing a registered sale deed.

In connection with the same, the entire sale consideration was credited by the vendee in the aforesaid petitioner's Bank Account No. 1661155000029002, which is maintained by the 4th respondent Bank. Thereafter, the petitioner approached the 4th respondent for withdrawal of money and he was informed that the said Bank account was freezed by the 4th respondent as per the instructions given by the 3rd respondent in connection with Cr.No.363 of 2021.

4.The learned Government Advocate (Crl.Side) appearing for the 3rd respondent on instructions submitted that the petitioner has already approached the third respondent Police to give a direction to the 4th respondent to de-freeze his bank account, since the detention order passed by the first respondent has been quashed by this Court on 25.04.2022. However, the said application is pending before the 3rd respondent.

5.Despite the case was adjourned twice for the instructions of the learned Standing Counsel appearing for the 4th respondent Bank, he failed to do so. However, he had orally submitted that the Bank has no role, since the bank



W.P.(MD).No.13515 of 2023

account of petitioner was freezed only based on the letter received from the 3rd respondent.

6.This Court in W.P(MD) No.2819 of 2023 has dealt with a similar case and passed a favourable order on 07.12.2023. The relevant portion is extracted hereunder:

“4. Section 102 Cr.P.C. empowers the investigation officer to freeze the petitioner's bank account. Madras High Court in the decision reported in 2013 SCC OnLine Mad 2629 (T.Subbulakshmi V. Commissioner of Police) had held as follows:-

“ 27.From the dictum laid down in the judgments relied on by the learned senior counsel for the petitioners it is clear that the bank account is a property within the meaning of Section 102 of Cr.P.C and sub-section (3) to Section 102 requires the reporting of seizure of the property to the concerned Magistrate forthwith, which is mandatory in nature. Moreover, the freezing of bank account is an act of the investigation and therefore, the duty is cast upon the Investigating Officer under Section 102(3) of Cr.P.C. to report the same to the Magistrate, since the freezure of the bank account prevents the person from operating the bank account pursuant to an investigation by the Police in a criminal case registered against him. If there is any violation in following the procedures under Section 102 of



W.P.(MD).No.13515 of 2023

Cr.P.C., the freezing of the bank account cannot be legally sustained. Since in the case on hand the 2nd respondent-Police has not reported the freezing of the bank accounts of the petitioners herein to the concerned Magistrate forthwith, which is mandatory under Section 102(3) of Cr.P.C., the proceedings of the 2nd respondent-Police in freezing of the bank accounts of the petitioners herein are not legally sustainable.”

5. I wanted to know to Ms.Samayamuthu, SSI, Kalayarkovil police station who present in person to assist the learned Government Advocate. I wanted to know from them, if the intimation had been sent to the jurisdictional Judicial Magistrate immediately. Even though some time was given, they could not produce any such intimation. Therefore, I have to necessarily hold that freezing of the petitioner's bank account has to be removed”.

7.In similar lines, when a pertinent question was raised to the learned Government Advocate (Crl.Side) as to any money involved in the instant case necessitating the 3rd respondent to freeze the bank account of the petitioner, the learned Government Advocate (Crl.Side) could not give any inputs positively. But he made it clear that the aforesaid intimation has been given to the 4th respondent, pursuant to the detention order passed against the petitioner in Cr.No.366 of 2021.



W.P.(MD).No.13515 of 2023

WEB COPY

8. In view of the same, I am of the considered view that the Investigation Officer ought not have called upon the bank to freeze the bank account of the petitioner. Accordingly, the 4th respondent will forthwith permit the petitioner to operate the petition mentioned bank account (A/c.No. 1661155000029002).

9. With the above directions, this writ petition stands allowed.

There shall be no order as to costs.

21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To

1. The District Collector,
Trichy District, Trichy.

2. The Commissioner of Police,
Trichy District, Trichy.

3. The Inspector of Police,
Somarasampettai Police Station,
Somarasampettai, Trichy District.

4. The Branch Manager,
Karur Vysya Bank Limited, Karumandapam
Branch, Trichy, Trichy District.



WEB COPY



W.P.(MD).No.13515 of 2023

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.13515 of 2023

21.11.2024