



W.P.(MD)No.17833 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **29.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.17833 of 2024

Manjammal @ Manjammal Devi

... Petitioner

Vs.

1. The Branch Manager,
State Bank of India,
Door No.148, Ward No.17,
Gudalur, Theni District.

2. The Branch Manager,
Canara Bank,
Door No.68-69, Ward No.11,
Kamatchiamman Kovil Street,
Gudalur, Theni District.

3. The Inspector of Police ,
PEW (Prohibition Enforcement Wing),
Uthamapalayam,
Theni District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 herein to defreeze the petitioner's saving bank account in Account No.32632434749 of the 1st respondent Bank and Account No.1055108020001 of the 2nd respondent Bank by considering the petitioner's representation dated 17.07.2024 within the stipulated time as framed by this Court.



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For Petitioner : Mr.P.Balamurugan
For Respondents : Mr.C.Deepak (R1)
Mr.C.Pethu Rajesh (R2)
Mr.A.Albert James (R3)
Government Advocate

ORDER

This writ petition has been filed seeking for direction to the respondents 1 and 2 to de-freeze the petitioner's saving bank accounts in Account No. 32632434749 of the 1st respondent Bank and Account No.1055108020001 of the 2nd respondent Bank, by considering the petitioner's representation dated 17.07.2024.

2. Heard the learned counsel on both sides and carefully perused the entire materials available on record.

3. The learned counsel appearing for the petitioner submitted that the petitioner was implicated in a NDPS case by the third respondent police and a criminal case in Crime No.910 of 2023 dated 31.10.2023 was registered against the petitioner by the third respondent. Pursuant to the same, they have intimated the first and second respondents to freeze the petitioner's bank



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accounts. On that basis, the petitioner's saving bank accounts in Account No. 32632434749 with the 1st respondent Bank and Account No.1055108020001 with the 2nd respondent Bank were freezed by the first and second respondents. The petitioner had availed jewellery loan in both the accounts of both banks. Now, because of this exercise of freezing of her accounts, she is not able to redeem her jewellery. Hence, this writ petition came to be filed.

4. The learned Government Advocate appearing for the third respondent submitted that the case is pending in FIR stage and further, the investigation is not yet over and hence charge sheet is not filed sofar. The learned Government Advocate appearing for the third respondent further submitted that such an exercise of sending an intimation to the first and second respondents to freeze the accounts of the petitioner was initiated under Section 102 of Cr.P.C.

5. This Court had already dealt with a similar case in WP(MD)No.28919 of 2023 dated 07.12.2023 and the relevant portion of the same is extracted as follows:-

“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



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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 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.”

6. It is needless to state that the petitioner has been implicated in NDPS case and the quantity of the contraband is obviously small. There is no other criminal antecedent as against the petitioner. In view of the same and considering the fact that the petitioner is a woman, the first and second respondents are directed to de-freeze the petitioner's saving bank accounts in Account No.32632434749 of the 1st respondent Bank and Account No. 1055108020001 of the 2nd respondent Bank forthwith.



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7. With the above direction, the Writ Petition stands allowed. There shall be no order as to costs.

29.11.2024

NCC : Yes / No
Index : Yes / No
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Note: Issue order copy on 03.12.2024.

TO:-

1. The Branch Manager,
State Bank of India,
Door No.148, Ward No.17,
Gudalur,
Theni District.
2. The Branch Manager,
Canara Bank,
Door No.68-69, Ward No.11,
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L.VICTORIA GOWRI, J.

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Order made in
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Dated
29.11.2024