

S/L 14  
09.12.2025  
Court. No. 25  
*sourav*

**WPA 19956 of 2025**

**Tamasha Samanta  
Vs.  
Union of India & Ors.**

*Mr. Soumen Bhattacharya  
Mrs. Sritapa Sinha  
Mr. Ankan Das  
Ms. Shradhya Ghosh  
Mr. Raunak Seal*

*...for the petitioner.*

*Mr. D. K. Kundu  
Mr. Arjun Basu*

*...for R.B.I.*

*Ms. Aparajita Ghosh*

*...for the IDBI Bank.*

1. The affidavit-of-service filed by the petitioner is taken on record.
2. Despite service, none appears on behalf of the Cyber Cell authorities of the Odisha.
3. The petitioner has filed the present writ application praying for a direction upon the IDBI Bank for defreeze the current bank account No. 00741020000009454 of the petitioner.
4. The learned counsel for the petitioner submits that the petitioner is having the current bank account in the IDBI Bank, Konnagar Branch, West Bengal. On May 13, 2024, the Bank has kept the current account of the petitioner freezed on the request of the Cyber Cell Department of Odisha.
5. The learned counsel for the petitioner submits that on May 13, 2024 the mother of the petitioner namely, Jogomaya has transferred an amount of Rs. 6,50,000/-

but without any notice and without any intimation to the petitioner, the Bank has freezed the account of the petitioner. The petitioner has made request to the concern authorities and the request made by the petitioner was forwarded by the Ministry of Home Affairs to the DGP, PHQ, Bakshi Bazar, Cuttack, Odisha for taking appropriate steps in accordance with law but in spite of the same, no steps have been taken by the DGP, Odisha. Accordingly, the petitioner has made further representation to the concerned authorities including the Ministry of Home Affairs and the representation was again forwarded by the concerned Ministry to the DGP, Odisha by a communication dated August 7, 2025 with the request for taking appropriate steps in accordance with law but till date, no action has been taken by the police authority of Odisha for defreezing the account of the petitioner.

6. The learned counsel for the petitioner submits that no illegal transaction has been made in the account of the petitioner and due to the freezing of the account of the petitioner, the petitioner is facing great difficulty for running his business.
7. The learned counsel for the Bank submits that as per the request of the Cyber Cell Department of Odisha, the Bank has freezed the account of the petitioner. She further submits that the Bank has acted in terms of the Standard Operating Procedure (SOP) wherein it provides that the lien has been marked as requested by the Cyber police in Cyber Crime Portal of Ministry of

Home Affairs for removal of lien, customer may contact the nodal police authority concerned. The lien/freeze cannot be removed by the Bank unless and until the Bank received any written information or NOC from the Cyber Cell authorities. She submits that if the petitioner will produce the NOC from the Cyber Cell authorities, the Bank will allow the petitioner to operate the bank account.

8. The learned counsel for the RBI submits that no communication has been made by the petitioner with the RBI.
9. The learned counsel for the petitioner has relied upon an unreported judgment in the case of ***Mr. Kartik Yogeshwar Chatur Vs. Union of India & Ors.*** in ***Criminal Writ Petition No. 321 of 2025*** passed by the Hon'ble Division Bench of Bombay High Court, Nagpur Branch dated November 20, 2025 wherein the Hon'ble Division Bench of Bombay High Court, Nagpur Branch rely upon a judgment passed by the Hon'ble Kerala High Court in the case of ***Headstar Global Pvt. Ltd. Vs. State of Kerala & ors. (Crl. MC No. 3740 of 2025)*** dated June 2, 2025. The Hon'ble Kerala High Court held that a police officer investigating a crime has to approach jurisdictional Magistrate under Section 107 of the BNSS to seek attachment of any property believed to be derived directly or indirectly from a criminal activity or the commission of an offence. Subsequent course will have to be adopted in terms of the order passed by the

Magistrate. The Court further clarified that while Section 106 speaks of seizure, Section 107 deals with attachment, forfeiture and restoration. The seizure under Section 106 can be carried out by a police officer, and an *ex post facto* report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon the orders of the Magistrate. The logic behind this distinction being that the purpose of seizure is more to secure the evidence during an investigation, whereas attachment is intended to secure the proceeds of crime by preventing its disposal and thus ensuring its availability for legal procedure such as forfeiture and distribution to the victims.

10. The judgment passed by the Hon'ble Kerala High Court makes it clear that the debit freezing account is not permissible under Section 106 of the BNSS. The order passed by the Kerala High Court was also challenged before the Hon'ble Supreme Court in SLP being SLP (Cri.) No. 13433 of 2025, where the Hon'ble Supreme Court denied to interfere with the said judgment.
11. Considering the above, this Court finds that in the present case, on the basis of the instruction of the Cyber Cell Department, the Bank has kept the account of the petitioner in lien and in the account, it is recorded that the disputed amount is Rs. 25,000/-. The Bank has taken the stand that unless and until no objection has been obtained by the petitioner from the concerned Cyber Cell authorities, it is not possible for

the Bank to defreeze the account but the legal possession is otherwise.

12. The Bank has not produced any document before this Court that any order passed by the Magistrate for allowing the Cyber Cell Department to freeze the account of the petitioner.
13. Considering the above, this Court finds that the Cyber Cell Department without obtaining the order from the learned Magistrate and without following the procedure as prescribed under Sections 106 and 107 of the BNSS has directed the Bank to freeze the account of the petitioner and the Bank has freezed the account of the petitioner which is not in accordance with law.
14. Accordingly, the freezing of the account of the petitioner on May 13, 2024 is set aside and quashed.
15. The Bank is directed to allow the petitioner to operate the bank account being current bank account No. 00741020000009454. It is made clear that this order will not prevent the police authorities or Cyber Cell authoritiy for taking appropriate steps in accordance with law, if necessary for freezing of the account of the petitioner in future.
16. Accordingly, **WPA 19956 of 2025** is disposed of.
17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

**(Krishna Rao, J.)**