IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

W.P.A. No. 20694 of 2025

Md. Akbar Ali Khan
-Versus-
State of West Bengal & Ors.

For the Petitioner	: Mr. Subhabrata Chowdhury Ms. Tripti Pandey
For the State	: Mr. Biswarup Biswas Ms. Sumita Sen
Heard On	: **11.09.2025**
Judgement On	: **11.09.2025**

Tirthankar Ghosh, J. :-

Petitioner has approached this Court being aggrieved that four different bank accounts of the petitioner has been frozen. Petitioner complains that petitioner is a businessman and the bank accounts were used for such business transaction only. However, petitioner is faced with inconveniences because of the huge amount of money which has been frozen and is unable to operate the accounts for business purposes.

State has submitted a report. Report reflects that the four accounts have been frozen and to that effect an enquiry was conducted through the government portal which reveal accounts of the following banks :-

(i) Account No. 6043026289114463 of Jana Finance Bank was frozen due to 21 complaints of "Online Fraud" registered at different police stations across various states of India (details enclosed).

(ii) Account No. 20100029600535 of Bandhan Bank was frozen due to 25 complaints of "Online Fraud" registered at different police stations across various states of India. (Details enclosed).

(iii) Account No. 3311110250053986 of Ujjivan Small Finance Bank was frozen due to 1 complaint of "Online Fraud" registered at a different police station Cyber Crime Police Station Rohini, Delhi. (Details enclosed).

(iv) Account No. 50100704735820 of HDFC Bank was frozen due to 1 complaint of "Online Fraud" registered at Cyber Crime Police Station Rohini, Delhi. (Details enclosed).

Learned advocate appearing for the petitioner has relied upon the authorities being Neelkanth Pharma Logistics Pvt. Ltd. Vs. Union of India & Anr. **(2025) SCC Online Del 1055**.

Attention of the Court was drawn to paragraphs 11 to 18 and paragraph 22 which are as follows:

> ***11.*** *In the present case, it is noteworthy that the petitioner's bank account, which had a withdrawable balance of Rs.*

93,50,05,208/-, was frozen due to innocuous entry of Rs. 200/- being credited therein. There is nothing to suggest that petitioner is suspect or accused of any cyber-crime. The petitioner, quite possibly, may not even be connected with the offence under investigation and might be unintended beneficiary. In such types of cyber-crimes, if any fraudster cheats a complainant and with the help of cheated money, when such fraudster buys something using such money, the police, chasing such money-trail, directs freezing the bank accounts of all concerned and in the process, many innocent recipients have to bear the brunt, for no fault of theirs.

***12.** Here, instead of directing preservation of disputed amount, which was mere Rs. 200/-, the bank was directed to freeze the entire account. Such action of freezing the account, in its entirety, has, reportedly, left the petitioner high and dry. It has led to significant adverse financial consequences, including dishonouring of several cheques issued by the petitioner and the complete disruption of its business operations.*

***13.** While dealing with a petition involving a similar issue which happened with a street-vendor, this Court had made following observation in Pawan Kumar Rai v. Union of India, 2024 SCC OnLine Del 8936.*

> *"25. Indubitably, passing of an order of freezing the entire bank account of the petitioner has a serious and adverse implication and invades and encroaches upon his invaluable right to earn and live with dignity. The impugned action, in essence, amounts to a violation of fundamental right of the petitioner, as it directly undermines his right to livelihood, which is integral part of the Right to Life guaranteed under Article 21 of the Constitution.*
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> *26. Furthermore, when the Investigating Agency has identified a specific sum credited to the bank account of the petitioner, it is difficult to comprehend as to why the entire bank account of petitioner has been freezed.*

> *27. Thus, the continued freezing of the entire bank account of the petitioner, without even hinting that the petitioner was either mastermind or accomplice in the cybercrime or knowingly received the funds as part of any illegal activity will not be justifiable and sustainable, at the moment."*

14. *Investigating Agency is fully empowered to conduct investigation, and can also, under appropriate circumstances, send request to the concerned bank, directing freezing of the entire account.*

15. *However, when it resorts to above, it must assign reasons.*

16. *Such discretion vests with investigating agency, its better left to them to decide as to when such blanket freezing needs to be ordered. However, once it chooses to do so, it must offer some justification. Such blanket measure, if taken recourse to, without offering any reason, can certainly play havoc with the financial concerns of such account holders. In relation to small-time vendors, it can disrupt prospects of their mere existence, even. It is not difficult to imagine that any such action can put their lives in a complete disarray.*

17. *Therefore, possibility of marking a lien on disputed amount, whenever it is identifiable, should be explored as a more appropriate interim measure. Ideally, it should be the first and foremost option. This would, naturally, mitigate the undue hardship being caused on account of blanket freezing of account and would also ensure that the alleged cheated money remains secured and intact.*

18. *It is pertinent to highlight that while dealing with a batch of petitions involving a similar issue, Kerala High Court in Dr. Sajir v. Reserve Bank of India, 2023 SCC OnLine Ker 9087 also made observation which reads as under:—*

> *"11. In the afore perspective, when the requisitions in these cases-by various Police Authorities in several States of India mention the exact amount suspected to have been credited to the accounts of the petitioners herein, one fails to fathom why their bank accounts in full, should remain frozen. This is more so because, even when the sums in question may have found credit in the accounts of the petitioners, unless the investigation eventually*

reveals that they were complicit in the Cyber Crime, or had received the same being aware of it, they could never be construed to be accused."

12. In fact, should the criminal enquiry found otherwise, it will be doubtful if the amounts in question could be even recovered from the petitioners, if they have received it as part of bonafide or other valid transactions, unaware of it being proceeds of crime."

***22.** In light of the frequent filing of such matters concerning blanket freezing of the accounts, this Court feels that Ministry of Home Affairs, Government of India should take proactive steps to address the same. It may consider consulting all concerned stakeholders, including respective States/UTs and then, with consensus of everyone, to chalk-out a uniform policy, standard operating procedures and guidelines to ensure that such matters are handled with requisite consideration and compassion. The aim should be to balance the rights of a complainant in any such criminal investigation vis-a-vis the right of innocent and unwary account-holder, made to face unwarranted hardship on account of blanket freezing of account, despite being completely innocent and unaware of commission of any crime".*

Reliance has also been placed on Abdul Basith Vs. Cyber, Economic & Narcotic Crime, rep by Station House Officer and Another **(2025) SCC Online Ker 83**. Paragraph 8 of the said judgment reads as follows :-

*"**8.** I am in complete agreement with the views in Dr. Sajeer and Nazeer K.T cases (supra). The above principles squarely applies to the facts of the case on hand. In the above conspectus, I dispose of the writ petition by passing the following directions:*

(i). The second respondent Bank is directed to confine the freezing order of the petitioner's bank account only to the

extent of the amount mentioned in the order/requisition issued by the Police Authorities. The above exercise shall be done forthwith, so as to enable the petitioner to transact through his account beyond the said limit;

(ii) The Police Authorities are hereby directed to inform the Bank as to whether freezing of the petitioner's account will be required to be continued even in the afore manner; and if so, for what further time;

(iii) On the Bank receiving the afore information/intimation from the Police Authorities, they will adhere with it and complete necessary action - either continuing the freeze for such period as mentioned therein; or withdrawing it, as the case may be;

(iv). If, however, no information or intimation is received by the Bank in terms of directions (ii) above, the petitioner will be at full liberty to approach this Court again; for which purpose, all his contentions in this Writ Petition are left open and reserved to him, to impel in future;

(v) The jurisdictional police officers shall inform the Bank whether the seizure of the bank account has been reported to the jurisdictional Magistrate and if not, the time limit within which the seizure will be reported. If no intimation as to the compliance or the proposal to comply with Section 102 of the Cr. P.C. is received by the Bank within two months of receipt of a copy of this judgment, the Bank shall lift the debit freeze or remove the lien, as the case may be, on the petitioner's bank account;

(vi) In order to enable the Police to comply with the above direction, the Bank, as well as the petitioner, shall forthwith serve a copy of this judgment to the jurisdictional officer and retain proof of such service.

The writ petition is ordered accordingly."

The Court while dealing with issue relating to bank accounts are required to assess as to whether the operation of the said bank account have been frozen pursuant to or in connection with any criminal case. The report which has been submitted before this Court was on the basis of an "Online Fraud" registered at a Cyber Crime Police Station Rohini, Delhi. In view of Cyber Crime Police Station case being registered which is reflected from the Police report of Officer-in Charge Khardah Police Station, it would be just and apposite to rely upon the judgment of the Hon'ble Supreme Court in ***Teesta Atul Setalvad –versus- State of Gujarat*** reported in **(2018)2SCC 372** paragraphs 17 and 18 of the said judgment is relevant which reads as follows:

> ***"17.*** *The sweep and applicability of Section 102 of the Code is no more res integra. That question has been directly considered and answered in State of Maharashtra v. Tapas D. Neogy [State of Maharashtra v. Tapas D. Neogy, (1999) 7 SCC 685 : 1999 SCC (Cri) 1352] . The Court examined the question whether the police officer investigating any offence can issue prohibitory orders in respect of bank accounts in exercise of power under Section 102 of the Code. The High Court, in that case, after analysing the provisions of Section 102 of the Code had opined that bank account of the accused or of any relation of the accused cannot be held to be "property" within the meaning of Section 102 of the Code. Therefore, the investigating officer will have no power to seize bank accounts or to issue any prohibitory order prohibiting the operation of the bank account. This Court noted that there were conflicting*

decisions of different High Courts on this aspect and as the question was seminal, it chose to answer the same. In para 6, this Court noted thus: (SCC p. 691)

"6. A plain reading of sub-section (1) of Section 102 indicates that the police officer has the power to seize any property which may be found under circumstances creating suspicion of the commission of any offence. The legislature having used the expression "any property" and "any offence" have made the applicability of the provisions wide enough to cover offences created under any Act. But the two preconditions for applicability of Section 102(1) are that it must be "property" and secondly, in respect of the said property there must have been suspicion of commission of any offence. In this view of the matter the two further questions that arise for consideration are whether the bank account of an accused or of his relation can be said to be "property" within the meaning of sub-section (1) of Section 102 CrPC and secondly, whether circumstances exist, creating suspicion of commission of any offence in relation to the same."

***18.** After analysing the decisions of different High Courts, this Court in para 12, expounded the legal position thus: (SCC pp. 694-95)*

"12. Having considered the divergent views taken by different High Courts with regard to the power of seizure under Section 102 of the Code of Criminal Procedure, and whether the bank account can be held to be "property" within the meaning of the said Section 102(1), we see no justification to give any narrow interpretation to the provisions of the Criminal Procedure Code. It is well known that corruption in public offices has become so rampant that it has become difficult to cope up with the same. Then again the time consumed by the courts in concluding the trials is another factor which should be

> *borne in mind in interpreting the provisions of Section 102 of the Criminal Procedure Code and the underlying object engrafted therein, inasmuch as if there can be no order of seizure of the bank account of the accused then the entire money deposited in a bank which is ultimately held in the trial to be the outcome of the illegal gratification, could be withdrawn by the accused and the courts would be powerless to get the said money which has any direct link with the commission of the offence committed by the accused as a public officer. We are, therefore, persuaded to take the view that the bank account of the accused or any of his relations is "property" within the meaning of Section 102 of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into. … In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court of Bombay [Chandrashekar Ramprakash Agarwal v. State of Maharashtra, 1997 SCC OnLine Bom 632] committed error in holding that the police officer could not have seized the bank account or could not have issued any direction to the bank officer, prohibiting the account of the accused from being operated upon."*
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> *After this decision, there is no room to countenance the challenge to the action of seizure of bank account of any person which may be found under circumstances creating suspicion of the commission of any offence."*

In view of the settled proposition of law I am of the opinion that the petitioner in the given set of circumstances would first assess whether the complicity of the petitioner surfaced in connection with the Cyber Crime Police Station, Rohini. In case the petitioner's complicity is found, petitioner should approach the Jurisdictional Court at Rohini, Delhi in the alternative, the petitioner is entitled to relief and the Investigating Officer of the case would take steps by way of withdrawing the instructions sent to the concerned Bank/Branch for allowing the petitioner to operate the Bank accounts.

With the aforesaid observations WPA 20694 of 2025 is disposed of.

Registrar General, High Court, Calcutta is directed to communicate the order to the Office of the Cyber Crime Police Station, Rohini, Delhi. The concerned police authorities would inform the petitioner regarding the outcome and/or the amount for which the accounts have been frozen.

Report submitted be kept with the record. Copy of the report be handed over to the learned advocate appearing for the petitioner.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)