17.12.2025
Court No.25
D/L No.13
S. Gayen

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23487 of 2025

Sanjay Gupta
Versus
The State of West Bengal & Ors.

Mr. Sanjoy Bose
Mr. Priyankar Basu Mallick
…for the Petitioner

Mr. Arnab Das
Mr. Rehan Ansari
…for the Respondent Nos. 4 & 5

1. The petitioner has filed the present writ application praying for defreezing the bank account of the petitioner lying with the HDFC Bank, Maniktala Brach being current account No. 50200012520175.

2. Learned counsel appearing for the petitioner submits that the bank has freezed the account of the petitioner and when the petitioner enquired the same, the bank has forwarded the letter dated 6th January, 2025 wherein, the Officer-in-Charge, Itanagar Police Station, Papumpare, Arunachal Pradesh has directed the Branch Manager, HDFC Bank to freeze the account of the petitioner and in terms of the direction of the Officer-in-Charge of Itanagar Police Station, the bank has freezed the account of the petitioner. Learned counsel for the petitioner further submits that on 13th January, 2025, the petitioner has received a

communication from the Assistant Commissioner of CGST & CX, Itanagar wherein, it is stated that during the investigation of M/s. Siddhi Vinayak Trade Merchants, the office of the Assistant Commissioner noticed that the said firm has passed the Input Tax Credit (ITC) in the account of the petitioner amounting to Rs. 1,83,934/-. On receipt of the said communication, the petitioner has immediately sent a reply to the Assistant Commissioner, CGST & CX informing the petitioner is no way connected with the M/s. Siddhi Vinayak Trade Merchants and he has no transaction with the said firm. After sending the said reply to the Assistant Commissioner, the petitioner has also reverted the amount of Rs. 1,83,934/- back in the account of M/s. Siddhi Vinayak Trade Merchants.

3. Learned counsel for the petitioner submits that the petitioner is no way connected with the M/s. Siddhi Vinayak Trade Merchants but the Officer-in-Charge, Itanagar Police Station without any authority directed the bank to freeze the account of the petitioner, due to which the petitioner is facing difficulties to run his business.

4. Learned counsel for the petitioner has relied upon the unreported judgment in the case of ***Mukesh vs. State of Rajasthan & Ors.*** passed by the Rajasthan High Court, Jodhpur Bench and submits that in the said

case, the Hon'ble Court has defreezed the amount of the petitioner by keeping the disputed amount aside.

5. Learned counsel for the bank submits that the petitioner is having he current account but the bank has received an instruction from the Officer-in-Charge, Itanagar Police Station with regard to the investigation of the case against one, M/s. Siddhi Vinayak Trade Merchants wherein, the bank has been instructed to freeze the account of the petitioner and accordingly on the instruction of the investigating agency, the bank has freezed the account of the petitioner. He further submits that the bank has not received any further instruction from the investigating agency to defreeze the account of the petitioner.

6. This Court finds that the bank has freezed the account of the petitioner on the instruction of the Officer-in-Charge, Itanagar Police Station. The petitioner has made the police authorities as respondent in the present writ application. On 1st December, 2025 this Court has taken the matter for hearing and this Court finds that the respondent Nos. 3 and 6 have not appeared before this Court. Accordingly, the petitioner was directed to issue notice upon the respondent Nos. 3 and 6. In compliance with the order passed by this Court, the petitioner has served fresh notice upon the respondent Nos. 3 and 6 but in spite of service of notice, none appears on behalf of the respondent Nos.

3 and 6. The affidavit of service filed by the petitioner be kept with the record.

7. The bank has freezed the account of the petitioner on the instruction of the Officer-in-Charge, Itanagar Police Station. The said instruction was given by the said officer on 6th January, 2025. Thereafter the investigating officer has not made any communication with the bank. The petitioner has issued the notice to the respondent Nos. 3 and 6 but in spite of receipt of the notice, the respondent Nos. 3 and 6 have not appeared before this Court. Neither the bank nor any of the respondents have produced any order or document before this Court that the investigating officer, Itanagar Police Station has obtained any order from any of the learned Magistrate under Section 106 or 107 of the Code of Criminal Procedure for freezing the account of the petitioner.

8. In the case of ***Mr. Kartik Yogeshwar Chatur vs. Union of India & Ors.*** reported in ***2025 SCC Online Bom 4778***, the Hon'ble Division Bench of Bombay High Court, Bench at Nagpur by relying upon the judgment passed by Kerala High Court in the case of ***Headstar Global Pvt. Limited vs. State of Kerala & Ors. (CRL. MC No. 3740/2025)*** dated 02.06.2025 held that:-

> *"10] Thus, the Kerala High Court, in clear terms, 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 commission of an offence. Subsequent course will have to be adopted in terms of order passed by the Magistrate. The Court further clarified that while Section 106 speaks of seizure, Section 107 deals with attachment, forfeiture and restoration. Seizure under Section 106 can be carried out by a police officer, and ex post facto report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon order of the Magistrate. The logic behind this distinction being that the purpose of seizure is more to secure evidence during investigation, whereas, attachment is intended to secure proceeds of crime by preventing its disposal and, thus, ensuring its availability for legal procedure such as forfeiture and distribution to the victim/s.

11] Thus, the judgment makes it clear that debit

freezing account is not permissible under Section 106 of the BNSS.

12] The judgment of Kerala High Court was challenged before the Supreme Court in SLP being SLP (Cri.) No. 13433/2025, where the Supreme Court declined to interfere with the said judgment.

13] That being so, the law stands well settled that under Section 106 of the BNSS, an Investigating Agency has no power to attach or debit freeze an account.

14] In that view of the matter, the orders, which are passed by the Investigating Agency in respective petitions under Section 106 of the BNSS are liable to be quashed and set aside.

15] We may note here that there is, in place system to deal with the financial fraud, which is titled as 'Citizen Financial Cyber Frauds Reporting and Management System'. This system has been published by the Indian Cybercrime Coordination Centre, which comes under the Ministry of Home Affairs, Government of India. Our attention is invited to FAQs, particularly, FAQ No.21.

The said question and answer would throw further light as to how Banks should deal with reports/communications received from an Investigating Agency. FAQ No. 21 and its answer reads as under :

> *"21. Whether the Bank can block/withhold the funds on the basis of the complaint's acknowledgement number that gets reported on the helpline number or NCRP ? Yes, Bank/intermediaries can put the disputed amount on lien on the basis of the complaint's acknowledgement number so that amount can be refunded later, after investigation of the complaint by concerned State/Uts LEAs."*

16] As could be seen, Bank/intermediaries can put the disputed amount on lien, but cannot debit freeze the account.

17] Despite such status, some Banks upon receiving certain communications from Investigating Agency, which does not even call for debit freezing accounts, are proceeding to debit freeze the accounts of the account holders resulting into losses to their day-to-day affairs.

18] Put all together, it is abundantly clear that an Investigating Agency has no power of attachment/debit freezing a Bank Account under Section 106 of the BNSS.

19] The Investigating Agency may, however, proceed in terms of Section 107 of the BNSS to debit freeze or attach a Bank Account.

20] So far as Banks are concerned, they should act in terms of the Management System, mentioned above, unless there is an specific order of debit freezing an account by a competent authority.

21] With the aforesaid observation, we allow the petitions partly. The orders passed under Section 106 of the BNSS in respective petitions debit freezing the accounts of the petitioners stand quashed and set aside."

9. The judgment relied upon by the petitioner in ***Mukesh*** (supra) the Single Bench of the Rajasthan High Court

has disposed of the matter by directing the respondent-bank to defreeze the account of the petitioner by keeping aside the disputed amount. This Court finds that the Hon'ble Division of the Bombay High Court has categorically held that unless and until an order is obtained by the investigating officer for freezing an account from the competent Court during the investigation, only on the request of the investigating officer, the account of the petitioner cannot be freezed. But in the present case, this Court finds that none of the authorities have produced any order from the any Court that on the basis of which the investigating officer has directed the bank to freeze the account.

10. Considering the above, this Court finds that the investigating officer without any order of the Court has directed the bank to freeze the account of the petitioner which is bad in law.

11. Accordingly, the bank, respondent No.4 is directed to defreeze the account of the petitioner and to allow the petitioner to operate the bank account.

12. WPA 23487 of 2025 is disposed of.

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

14. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)