

S/L 9
24.12.2025
Court. No. 25
sourav

WPA 29593 of 2025

**Arshad Autobahn India Pvt. Ltd. & Anr.
Vs.
Reserve Bank of India & Ors.**

*Mr. Sambuddha Dutta
Mr. Puranjan Pal
Mr. Kazi Ashique Azfar*

...for the petitioners.

*Ms. Rama Halder
Mr. Samir Kumar Ghosh*

...for the State.

1. The affidavit-of-service filed by the petitioners is taken on record.
2. The petitioners have filed the present writ application praying for a direction upon the respondent nos. 9 and 10 to defreeze the account of the petitioners and to allow the petitioners to operate the bank accounts.
3. The petitioners submit that the petitioners are having altogether five current accounts being nos. 50200083652467, 5020064531772, 5020083933334, 50200074970282 and 5200095379412. The counsel for the petitioners submits that on 09.09.2025, the bank has put on hold with respect to the account no. 50200074970282 for an amount of Rs. 2,157/-, on 13.09.2025, account no. 50200074970282 for an amount of Rs. 1,058/-, on 14.11.2025, account no. 50200083652467 for an amount of Rs. 2,209/-, on 30.11.2025, account no. 50200074970282 for an amount of Rs. 2,715/- and again the bank has put on hold the account no. 50200083652467.

4. Learned counsel for the petitioners submits that subsequently the bank is not allowing the petitioners to operate the said bank accounts. He submits that all the bank accounts of the petitioners are the current account due to which the petitioners are facing difficulty to run their business. He further submits that the petitioners have made several representations to the bank but till date the bank has not defreezed the accounts of the petitioners nor the bank is allowing the petitioners to operate the bank accounts.
5. The petitioners have served the notice upon all the respondents but in spite of service of notice, none appears on behalf of the bank.
6. The state has filed a report and submits that the transaction made with the petitioners' bank by the other banks which are situated outside the jurisdiction of this Court and as such, this Court is not having the jurisdiction to entertain the writ application.
7. Learned counsel for the petitioners submits that the total disputed amount on the basis of which the bank has held the account of the petitioners and not allowing the petitioners to operate the bank account is only Rs. 8,139/- due to which the petitioners are not in a position to operate the bank accounts for the further amount which belong to the petitioners' business.
8. This Court is specifically enquired from the State respondent whether the investigating agency has obtained any order from the concerned Court for freezing the accounts of the petitioners, the learned counsel appearing for the State submits that the bank accounts have been freezed on the

instruction of the other police station which is not within the jurisdiction of the State of West Bengal and as such, she is not in a position to give any reply to the same.

9. In spite of service of notice, none appears on behalf of the bank. No documents have been placed before this Court on what circumstances the accounts of the petitioners were kept on hold and subsequently, it has been freezed by not allowing the petitioner to operate the bank accounts.
10. In the case of ***Kartik Yogeshwar Chatur Vs. Union of India & Ors.*** reported in **2025 SCC Online Bom 4778**, the Division Bench of the Hon'ble Bombay High Court relying upon a judgment passed by the Kerala High Court has held that

“9. Taking cognizance of these provisions, the Kerala High Court held thus:

12. Going by Section 107 of BNSS, a police officer investigating a crime has to approach the jurisdictional Magistrate seeking attachment of any property believed to be derived directly or indirectly from criminal activity or the commission of an offence. The Magistrate may thereupon order attachment after hearing all parties concerned or issue an interim order for attachment, if issuing notice to the owner will defeat the purpose of attachment and seizure. After confirming that the attached property is the proceeds of crime, the Magistrate can direct the District Magistrate to distribute the property among those affected by the crime. Thus Section 107 confers the jurisdictional Magistrates with explicit authority to act swiftly in cases involving proceeds of crime.

13. Another aspect of importance is 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 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 victim/s.

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.”*

11. Considering the above, this Court finds that the disputed amount is only Rs. 8,139/-, accordingly, the bank is directed to allow the petitioners to operate the bank accounts of the petitioners by keeping aside an amount of Rs. 8,139/- as mentioned above till the final decision taken by the authority on whose instruction the bank has held the said amount.
12. **WPA 29593 of 2025** is disposed of.
13. 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.)