



W.P(MD)No.3165 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2025

CORAM :

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P(MD)No.3165 of 2025

Moyeen Ahmed

... Petitioner

Vs

1. The Additional Director General of Police,
Cyber Crime Wing,
No. 3, Dr. Nagesan Road,
Police Tranining College Campus,
3rd Floor, Cyber Crime Wing,
Ashok Nagar, Chennai 600.

2. The State, Represented by
The Inspector of Police,
(Cyber Crime Division - III),
CCPS, Korampallam,
Thoothukudi 628 101.

3. M/s. HDFC Bank Limited,
Rep by its Principal Nodal Officer,
5th Floor, Tower B,
Peninsula Business Park,
Lower Parel West,
Mumbai 400 013.



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4. M/s. HDFC Bank Limited,,
Rep by its Branch Manager,
Islampur Branch,
1st Floor, Rajburbar Complex,
Ns Road, Ukil Para Baz Ar,
Islampur,
Uttar Dinajpur District,
West Bengal - 733 202.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd and 4th respondents to defreeze the petitioner's account bearing Account No. 50200069200126 and IFSC Code. HDFC0002747 maintained at the 4th respondent Bank's branch at Islampur, West Bengal by earmarking a disputed amount to the extent of Rs.3,00,000/- (Rupees Three Lakhs Only) and to release the remaining sum of Rs. 1,79,18,719.41/- (Rupees One Crore and Seventy Nine Lakhs Eighteen Thousand Seven Hundred and Nineteen and Paise 41 only).

For Petitioner : Mr.Sriram
Senior Counsel
For Mr.M.Jeeva,

For R1 and R2 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

For R3 and R4 : Mr.A.Srinivasan
For M/s Kings & Partridge



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ORDER

This Writ Petition has been filed seeking a direction to the respondents 2 and 4 to defreeze the petitioner's account bearing Account No. 50200069200126 and IFSC Code. HDFC0002747 maintained at the fourth respondent Bank branch at Islampur, West Bengal by earmarking a disputed amount to the extent of Rs.3,00,000/- (Rupees Three Lakhs Only) and to release the remaining sum of Rs.1,79,18,719.41/- (Rupees One Crore and Seventy Nine Lakhs Eighteen Thousand Seven Hundred and Nineteen and Paise 41 only).

2.The learned Senior Counsel appearing for the petitioner would submit that the petitioner actively and legally engaged in the field of affiliate marketing which involves promoting various online business and Telegram channels, through social media platforms and he is running the business in his personal name by opening a current account with the fourth respondent Bank and he has operated the said account and the credit balance lying in the said account is INR 1,82,18,719.41/- and the same was accumulated through the petitioner's hard earned bonafide



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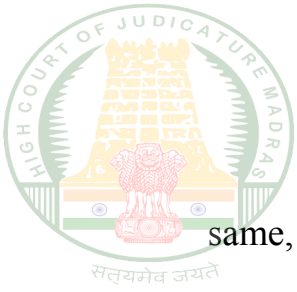
business. During the financial year 2022 - 2023, the petitioner received legal commission amount of Rs.1,75,03,480/- through his overseas transactions and the source of income are legitimate activities, including online affiliate marketing and peer-to-peer (P2P) transactions conducted via the Binance Crypto Currency portal. In the mean time, it was brought to the notice through an e-mail sent by the fourth respondent that the petitioner's account has been frozen as per the order issued by the second respondent in connection with No.NCRP 32904230007880. It was learnt that one Jebakumar, resident of Tuticorin was a victim of online fraud and had lost a sum of Rs.37,585/-. Pursuant to the above cyber crime, a complaint was lodged before the second respondent on 06.04.2023. Subsequently, an FIR in Crime No.14 of 2024 was registered and the fourth respondent was instructed to freeze the petitioner's account. The first respondent is having the over all control for cyber crime offences. The second respondent, during the investigation earmarked several accounts including the petitioner's account bearing Account No.50200069200126. The Cyber Crime Police flagged certain transactions as suspicious, including one specific transaction dated 04.04.2023 amounting to INR 3,00,000/- under the complaint in NCRP 32904230007880, on the file of the second



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respondent. The above said transaction was a lawful P2P transfer in which, the petitioner sold 5,617.97 USDT. Already the petitioner submitted a detailed documentation and transaction screenshots to the second and fourth respondents clearly demonstrating the legality and legitimacy of the transaction and the freezing orders passed against the petitioner has been received from different locations including Rajkot, Tirupati and Tuticorin via orders, dated 02.07.2023, 12.05.2022 and 13.10.2023. As per the orders, the total amount would come to a sum of Rs.3 Lakhs. However, the entire bank account has been frozen. The petitioner is unable to operate the account. Therefore, the disputed amount alone can be retained until the investigation is over and the remaining amount can be defreezed.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that they registered the case in Crime No.14 of 2024, on 18.01.2024, based on the complaint lodged by one Jebakumar, Thoothukudi, for the online fraud of Rs.37,585/- and the petitioner's account has been frozen due to suspicion and the investigation is pending. Therefore, at this stage, they sent a letter to the fourth respondent Bank for freezing the petitioner's account based on the



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same, the fourth respondent has frozen the account. If the account was defreezed, then the petitioner can withdraw the entire amount and they cannot recover the money from the petitioner. He would further submit that they also received the same kind of requests to freeze the petitioner's account, from various other police stations. Therefore, this petition is liable to be dismissed.

4.The learned Counsel for the third and fourth respondents would submit that the petitioner is the account holder for the current account No.50200069200126 and based on the request made by the first respondent, they freezed the petitioner's account. They will abide the order of the Court and they have no any personal interest in this case.

5.Heard both sides and perused the records.

6.According to the petitioner, his account is maintained at the fourth respondent Bank and the same was freezed based on the request of the first respondent. According to the first respondent, based on the complaint lodged by one Jebakumar for the online fraud of Rs.37,585/- for which, an FIR has been registered and the entire bank account has



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been frozen. The total amount lying in the account is Rs. 1,82,18,719.41/-. Thereafter, other complaints were received from various police stations namely, Rajkot Cyber Cells, Tirupati Cyber Cells to the tune of Rs.3 Lakhs.

7.At this juncture, the learned Senior Counsel appearing for the petitioner relied upon the judgment of this Court in the case of ***Mohammed Saifullah Vs. Reserve Bank of India and others*** in ***W.P.No. 25631 of 2024*** and in the case of ***Sahil Raj Vs. The State of Tamil Nadu, and others in W.P.No.21344 of 2022*** , wherein, this Court passed orders that no doubt, the statutes empower the investigation agency to request the Bank to freeze the account pending investigation and intimate it forthwith to the jurisdiction Court, but whether the power is properly exercised or not is the moot question now looming large and in the several judgments of the Courts across the India, it had been categorically held that there cannot be freezing of account perpetually without intimating the account holders what for their account is freezed and what extent it has to be freezed. Even then, day in and day out, this Court receives applications to defreeze the account pointing out the failure of the investigating agency not only to the account holders, even

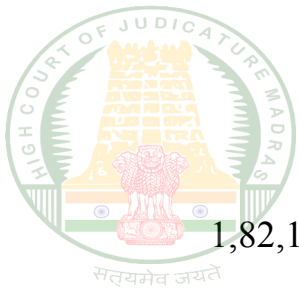


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to the jurisdictional Court not intimating about the freezing of the account as per Section 102 of Cr.P.C. equivalent to 106 of BNSS Act.

"The learned Senior Counsel for the petitioner also referred to the circular issued by the Commissioner of Police, Greater Chennai Police, Vepery, Chennai and submitted that this Court passed order in W.P.No.25631 of 2024, dated 10.09.2024, that order of freezing the entire amount without quantifying the amount and the period cannot be passed. Such order will be construed as violation of fundamental rights of trade and business and as well as the fundamental rights of livelihood. Therefore, it is appropriate to defreeze the petitioner's account and kept a lien over the disputed amount and the petitioner therein was permitted to operate his account, subject to the condition that he shall ensure the account shall always have a minimum of Rs.2,50,000/-. "

8.In this case also, no intimation has been given to the petitioner as well as the jurisdictional Magistrate Court and thereby, violation of provision under Section 106 BNSS and there are no any records to show that after freezing the account, the investigation agency have intimated to the jurisdictional Magistrate. Therefore, it is appropriate to allow this petition. In this case, the total amount lying in the account is Rs.



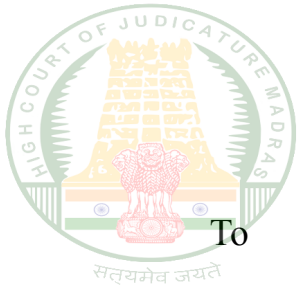
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1,82,18,719.41/- but the disputed amount is only Rs.3 Lakhs. Therefore, the fourth respondent is directed to defreeze the petitioner's account and kept a lien over the sum of Rs.3 Lakhs and the petitioner is also permitted to operate his account subject to the condition that he shall ensure that a minimum balance of Rs.3 Lakhs is maintained in his account.

9. With the above observations and direction, this Writ Petition is disposed of.

28.03.2025

Internet : Yes
Index : Yes/No
NCC : Yes/No
LR



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To

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1. The Additional Director General of Police,
Cyber Crime Wing,
No. 3, Dr. Nagesan Road,
Police Training College Campus,
3rd Floor, Cyber Crime Wing,
Ashok Nagar, Chennai 600.

2. The State, Represented by
The Inspector of Police,
(Cyber Crime Division - III),
CCPS, Korampallam,
Thoothukudi 628 101.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

LR

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