



W.P(MD)No.17604 of 202

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.17604 of 2025

1.Murugan
2.Vanitha

... Petitioners

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2.The Inspector of Police,
Elumalai Police Station,
Madurai District.

3.The Branch Manger,
Canara Bank,
Usilampatti Branch,
Madurai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent bank to defreeze the petitioners' savings bank account Nos.1022119035644 (Murugan) and 1022119035709 (Vanitha) maintained with the third respondent bank and allow the petitioners to operate the same by considering the petitioners' representation dated 11.06.2025.



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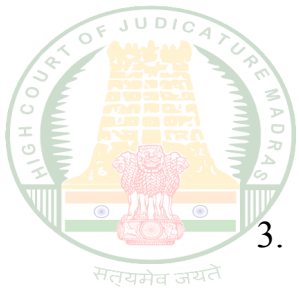
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For Petitioners	: Mr.D.S.Haroon Rasheed
For R1 & R2	: Mr.K.Sanjai Gandhi Government Advocate (Crl.Side)
For R3	: Mr.V.Balasubramanian Standing Counsel

ORDER

This writ petition has been filed for a Mandamus to direct the third respondent bank to defreeze the petitioners' savings bank account Nos.1022119035644 (Murugan) and 1022119035709 (Vanitha) maintained with the third respondent bank and allow the petitioners to operate the same by considering the petitioners' representation dated 11.06.2025.

2. The petitioners are the parents of Sanjay, who has been arrayed as an accused for offences under Section 8(c) and 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985. An FIR was registered in Crime No.203 of 2024, dated 03.10.2024 before the second respondent. The respective petitioners' accounts were freezed pursuant to the oral instructions from the second respondent by the third respondent.



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3. Today, when the case was taken up for hearing at the time of admission, the learned counsel for the respondents submits that the first petitioner has only Rs.96/ in his account- and the second petitioner has a nil balance in her account. It is informed that these petitioners have obtained a jewel loan from the third respondent bank and the amounts have not been paid towards the dues for the jewel loan to the third respondent on account of the freezing of the bank accounts by the third respondent.

4. It is noticed that while dealing with identical situation under Section 102 (3) of the Cr.P.C., this Court in the case of ***T.Subbulakshmi Vs.Commissioner of Police*** reported in ***2013 SCC Online Mad 2629***, held as under:

“ 27.From the dictum laid down in the judgments relied on by the learned senior counsel for the petitioners it is clear that the bank account is a property within the meaning of Section 102 of Cr.P.C and sub-section (3) to Section 102 requires the reporting of seizure of the property to the concerned Magistrate forthwith, which is mandatory in nature. Moreover, the freezing of bank account is an act of the investigation and therefore, the duty is cast upon the Investigating Officer under Section 102(3) of Cr.P.C. to report the same to the Magistrate, since the freezure of the bank account prevents the person from operating the bank account pursuant to an investigation by the Police in a criminal case registered against him. If there is any violation in following the procedures under Section 102 of Cr.P.C., the freezing of the bank account cannot be legally



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sustained. Since in the case on hand the 2nd respondent-Police has not reported the freezing of the bank accounts of the petitioners herein to the concerned Magistrate forthwith, which is mandatory under Section 102(3) of Cr.P.C., the proceedings of the 2nd respondent-Police in freezing of the bank accounts of the petitioners herein are not legally sustainable.”

5. Section 102(3) of the Cr.P.C., is pari metria with Section 106(3) of BNSS, 2023. Following the above decision of this Court in the case of T.Subbulakshmi stated supra, this Court in the case of ***K.Usharani Vs. The Superintendent of Police and others (W.P(MD)No.28919 of 2023, dated 07.12.2023)*** held as under:

“4. There is yet another aspect of the matter. It is true that the petitioner's son has been implicated in NDPS case. The quantity of contraband is small. There is nothing on record to say that there is any connection between the petitioner and her son's alleged illegal activities. Unless the investigation officer satisfies himself that based on the materials, the amount deposited in the petition mentioned bank account is traceable to some crime, the investigation officer could not have called upon the bank to freeze the petitioner's bank account. In this case, the request made by the second respondent is not based on any material. Therefore, on these twin grounds, the impugned order is set aside. The third respondent will permit the petitioner to operate the petition-mentioned bank account. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.”

6. Considering the above decision and in view of the fact that the petitioner has to service jewel loan taken from the third respondent bank and considering the fact that there



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is only Rs.96/- in the account maintained by the first petitioner and nil balance in the account maintained by the second petitioner, I direct the third respondent to de-freeze the accounts of the petitioners forthwith.

7. The writ petition stands disposed of. There shall be no order as to costs.

01.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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C.SARAVANAN, J.



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