



W.P.(MD)No.22707 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.22707 of 2024

P.Santhanam

: Petitioner

Vs.

1. The Superintendent of Police,
Madurai District.

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

3. The Bank Manager,
State Bank of India,
Nagamalaipudukkottai Branch,
Madurai District.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the third respondent to de-freeze the petitioner's above savings account No. 40028660275, maintained with the 3rd respondent bank, and allow the petitioner to operate the same as usual by considering the petitioners representation dated 03.09.2024.



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For Petitioners : Mr.S.Srikanth

For Respondents : Mr.K.Gnanasekaran

Government Advocate (Crl. Side)

for R1 & R2

Mr.N.Dilip Kumar for R3

ORDER

The petitioner has filed this Writ Petition seeking a mandamus, directing the third respondent to de-freeze the petitioner's above savings account No.40028660275, maintained with the third respondent bank and allow him to operate the same by considering his representation dated 03.09.2024.

2. When the matter was taken up for hearing today, the learned counsel for the petitioner, submitted that the issue involved in this writ petition is squarely covered by the order of this Court dated 07.12.2023, passed in W.P.(MD) No.28919 of 2023. The learned counsel for the petitioner further submitted that even 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 sustained.



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3. The learned Government Advocate (Crl. Side), appearing on behalf of Respondents 1 and 2, submitted that a case has been registered against the petitioner for offences committed under the NDPS Act and the petitioner has been arrayed as Accused No. 4.

4. The learned counsel appearing on behalf of the third respondent bank would not have much to say as he is a formal party in this writ petition.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Since the issue is squarely covered by the order of this Court dated 07.12.2023, in W.P.(MD) No.28919 of 2023, it would be appropriate to extract the relevant paragraphs hereunder:

“4. Section 102 Cr.P.C. empowers the investigation officer to freeze the petitioner's bank account. Madras High Court in the decision reported in 2013 SCC OnLine Mad 2629 (T.Subbulakshmi V. Commissioner of Police) had held as follows:-



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“ 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 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



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2nd respondent-Police in freezing of the bank accounts of the petitioners herein are not legally sustainable.”

5. I wanted to know to Ms.Samayamuthu, SSI, Kalayarkovil police station who present in person to assist the learned Government Advocate. I wanted to know from them, if the intimation had been sent to the jurisdictional Judicial Magistrate immediately. Even though some time was given, they could not produce any such intimation. Therefore, I have to necessarily hold that freezing of the petitioner's bank account has to be removed.

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



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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.”

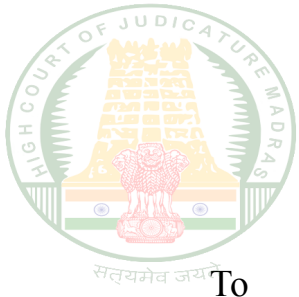
7. In view of the above, the Writ Petition stands disposed of in line with the judgment referred to. Accordingly, there shall be a direction to the third respondent to de-freeze the petitioner's savings account No.40028660275 and allow him to operate the bank account. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

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VIVEK KUMAR SINGH, J.

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