S/L 15
30.04.2026
Court. No. 25
suvayan

WPA 26039 of 2025

Shibashish Dhar
Vs.
The State of West Bengal & Ors.

Ms. Subhasri Chatterjee
Mr. Shashwata Sadhukhan
Mr. Subhadeep Maitra

...for the petitioner.

Mr. Swapan Kr. Pal

...for the State.

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Kripa Kami

...for the respondent no. 4 & 5.

Mr. Debabrata Das
Mr. A. Sarkar
Mr. Pratik Acharjee

...for R.B.I.

1. The petitioner has filed the present writ application praying for a direction upon the respondent nos. 4 and 5 for defreezing Savings Account of the petitioner being Account no. 019052400000919 maintained by the petitioner with the Yes Bank Limited, Dalhousie Branch, Stephen House.
2. Learned counsel for the petitioner submits that the petitioner is maintaining his savings account with the respondent no. 4 but all of a sudden on May 30, 2024 has freezed the account of the petitioner on the ground of receipt of the complaint from one Dara Temurus Pestonji. She submits that the Bank has freezed the account of the petitioner on the allegation that on April 30, 2024 an amount of Rs. 1,09,236/- was deposited in the account of the petitioner out of which Rs. 81,000/-

has been disputed by the complaint dated May 30, 2024 and as such as per the instruction of the Cyber Crime authority of Pune, bank has freezed the account. The petitioner submits that when the petitioner came to know about the freezer the account of the petitioner by the Bank, the petitioner has made several request to the Bank but the Bank has not defreezed the account of the petitioner, due to which the petitioner is not in a position to operate the said account. The petitioner further submits that the Bank has also blocked the PAN card of the petitioner.

3. *Per contra*, learned advocate appearing for the Bank submits that the Bank has received a written complaint from the Cyber Crime, Pune wherein it is mentioned that one Dara Temurus Pestonji has made a complaint to the Cyber Crime authority and during the investigation by the Cyber Crime authority it has been found that out of transaction of Rs. 1,09,236/-, an amount of Rs. 81,000/- is a disputed one and accordingly as per the advice of the Cyber Crime Branch, the Bank has freezed the account of the petitioner.

4. The petitioner has made Cyber Crime authority as respondent nos. 8 to 11 but in spite of service of notices on two occasions, the respondent nos. 8 to 11 failed to appear before this Court.

5. This Court finds that though the Bank has freezed the account of the petitioner on the complaint received from the Cyber Crime Authority, Pune but neither the Cyber Crime Authority nor the Bank has brought any record

that the Cyber Crime Agency have obtained any order from any Court for freezing of the account of the petitioner under Sections 106 and 107 of BNSS.

6. In the case of ***Pawan Kumar Rai vs. Union of India & Anr.*** reported in ***2024 SCC OnLine Del 8936*** observed that:

> ***"25.*** *Indubitably, passing of an order of freezing the entire bank account of the petitioner has a serious and adverse implication and invades and encroaches upon his invaluable right to earn and live with dignity. The impugned action, in essence, amounts to a violation of fundamental right of the petitioner, as it directly undermines his right to livelihood, which is integral part of the Right to Life guaranteed under Article 21 of the Constitution.*
>
> ***26.*** *Furthermore, when the Investigating Agency has identified a specific sum credited to the bank account of the petitioner, it is difficult to comprehend as to why the entire bank account of petitioner has been freezed.*
>
> ***27.*** *Thus, the continued freezing of the entire bank account of the petitioner, without even hinting that the petitioner was either mastermind or accomplice in the cybercrime or knowingly received the funds as part of any illegal activity will not be justifiable and sustainable, at the moment."*

7. Investigating Agency is fully empowered to conduct investigation and can also under appropriate circumstances send request to the concerned bank, directing freezing of the entire account. Such discretion vests with investigating agency, its better left them to decide as to when such blanket freezing needs to be ordered. However, once it chooses to do so, it must offer

some justification. Such blanket measure, if taken recourse to, without offering any reason, can certainly play havoc with the financial concerns of such account holders. In relation to small time vendors, it can disrupt prospects of their mere existence, even. It is not difficult to imagine that any such action can put their lives in a complete disarray.

8. Considered the submission made by the learned counsel for the respective parties perused the materials on record.

9. This Court finds that the Bank has freezed the account of the petitioner on receipt of the complaint of Cyber Crime, Pune that the transaction made on April 30, 2024 with regard to an amount of Rs. 1,09,236/- there is a disputed amount of Rs. 81,000/- and the same was informed to the Bank on May 30, 2024 and the Bank has freezed the account of the petitioner.

10. Considering the above, this Court finds that there might be any investigation carried out by the Cyber Crime authority but the Cyber Crime authority failed to appear before this Court in spite of service of notice even they have not communicated either to the Bank or to this Court that the Cyber Crime authority have received any order with regard to the freezing of the account of the petitioner form any Court or failed to offer any reasons for such freezing of the account.

11. Considering the above, this Court finds that the disputed amount is only Rs. 81,000/- out of Rs. 1,09,236/-.

12. Accordingly, the respondent nos. 4 and 5 are directed to defreeze the account of the petitioner and to unblock the PAN card of the petitioner and to allow the petitioner to operate the bank account by keeping the disputed amount of Rs. 81,000/- in lien.
13. WPA 26039 of 2025 is disposed of.
14. 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.)