VED PRAKASH DEWANGAN

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CGHC010425852024 2026:CGHC:46556

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 3454 of 2024

Reserved for orders on 06/08/2026

Order delivered on 03/11/2026

1 - Shahib Khan S/o Late Shri Salim Khan Aged About 46 Years R/o Gudem Plaza, T.S.N. Colony, Vishakhapatnam, Andhra Pradesh

2 - Mrs Saher Khan Partner In M/s Indigo Shipping Services W/o Shahib Khan Aged About 46 Years R/o 44-27-5 Gr Towers T-5 Railway New Colony Near Masjid Vishakhapatnam (Urban) Akkayyapalem, Vishakhapatnam Andhra Pradesh

... Petitioners

versus

1 - State Of Chhattisgarh Through Station House Officer P.S. Khamtarai, District Raipur, Chhattisgarh

2 - Regional Manager Icici Bank Raipur District- Raipur (C.G.

Respondents

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Sudhanshu Kumar Singh, Advocate
For Respondent No.1/State	:	Mr. Avinash Singh, Govt. Advocate
For Respondent No.2/Bank	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Order

1. The present Criminal Miscellaneous Petition under Section 482 of the Code of Criminal Procedure, 1973, has been filed by the petitioners

against the order dated 26.10.2024 passed by the learned 10th Additional Sessions Judge, Raipur, and the order dated 03.09.2024 passed by the learned Judicial Magistrate First Class, Raipur, in Criminal Case No. 16298/2023, whereby the application filed by the petitioner for de-freezing his bank account has been rejected. The petitioners claimed the following reliefs in the petition:-

> "1. That this Hon'ble court may kindly be pleased to set aside the order dated 26/10/2024 (ANNEXURE P1) and the order dated 03/09/2024 (ANNEXURE P4) in the interest of Justice.
>
> 2. That this Hon'ble court may kindly be pleased to direct the respondent authorities to defreeze the bank account of the petitioner.
>
> 3. That this Hon'ble Court may kindly be pleased to call for entire records pertaining to the present case for its kind perusal, in the interest of justice.
>
> 4. That any other relief Hon'ble Court deems feet may also be granted."

2. Learned counsel for the petitioners would submit that the petitioners are the Managing Partner of M/s Indigo Shipping Services and maintain a current account bearing Account No. 126805001487 with ICICI Bank Ltd., Vishakhapatnam, for carrying out regular business transactions. The said account has been debit-frozen by respondent No. 2 Bank pursuant to the letter dated 04.01.2024 issued by respondent No.1, Police Station Khamtarai, Raipur, in connection with Crime No. 685/2023, registered for the offences punishable under Sections 420 and 34 of the Indian Penal Code and Sections 7 and 8 of the Chhattisgarh Gambling Prohibition Act, 2022. He would submit that the petitioners are neither named as accused persons in the said crime nor has any allegation been made against them regarding their

involvement in the alleged criminal activities relating to the Mahadev App online gambling activities. It is also submitted that the petitioner has no concern whatsoever with the alleged commission of the offences and their name has surfaced only because of certain business dealings with one Mohammad Farhan, whose mobile number is stated to have some connection with the bank account in question. It is submitted that mere business dealings with a person allegedly connected with the crime cannot be a sufficient ground to presume that the petitioners or their bank account is involved in the commission of the alleged offences. Learned counsel would emphasise that neither in the charge-sheet nor in the supplementary charge-sheets filed before the learned trial Court have the petitioners been arrayed as accused, nor has the prosecution disclosed any specific financial transaction from the petitioner's bank account demonstrating its connection with the alleged criminal activity.

3. Learned counsel would further submit that the learned Judicial Magistrate has rejected the petitioner's application seeking de-freezing of the bank account on the ground of the gravity of the offences and the fact that supplementary charge-sheets had been filed in the matter. However, the learned trial Court failed to appreciate that the gravity of the allegations in the criminal case, by itself, cannot justify the continued freezing of a bank account belonging to a person against whom no specific incriminating material has been brought on record. It is submitted that the learned revisional Court has also committed an error in affirming the said order without examining whether any material was available to establish a reasonable nexus between the petitioner's bank account and the alleged offences.

4. Learned counsel would next submit that the petitioner had placed his bank statements for the period from 01.08.2022 to 10.09.2022 before the learned trial Court to demonstrate that the transactions reflected therein were in the ordinary course of his business and that no suspicious deposits or financial transactions connected with the alleged crime were discernible. However, the learned Courts below have failed to properly consider the aforesaid documents. It is argued that the learned revisional Court has erroneously observed that the nature and genuineness of the business transactions are matters of evidence to be considered during trial, whereas the question before the Court was whether any prima facie material existed to justify the continued freezing of the petitioner's bank account. The investigating agency has continued the debit freeze of the petitioner's bank account for a considerable period, without disclosing any specific material showing that the amount lying therein represents proceeds of crime or that the account was utilised for commission of the alleged offences. Such an indefinite restriction upon the operation of a bank account, without establishing the requisite nexus with the alleged criminal activity, is arbitrary and unsustainable in law. It is submitted that the petitioner is engaged in legitimate business activities and the continued freezing of the account has seriously disrupted his business operations, thereby affecting his right to carry on trade and business guaranteed under Article 19(1)(g) of the Constitution of India.

5. It is also submitted that the investigating agency has failed to establish compliance with the statutory requirements prescribed under Section 102 of the Code of Criminal Procedure, 1973. It is argued that although the investigating officer may have the power to seize or

freeze a bank account during investigation, such power is not unfettered and can be exercised only where the investigating officer has reason to believe that the property has a connection with the commission of an offence. Further, the seizure is required to be forthwith reported to the jurisdictional Magistrate in terms of Section 102(3) of the Cr.P.C. Learned counsel would submit that the respondents have not demonstrated compliance with the aforesaid statutory requirement, and the learned revisional Court has failed to examine this material aspect while upholding the freezing of the account. By placing reliance upon the judgment of the Hon'ble Supreme Court in **State of Maharashtra v. Tapas D. Neogy**, reported in (1999) 7 SCC 685, to submit that although a bank account constitutes property within the meaning of Section 102 of the Cr.P.C., the power to freeze the same is exercisable only when the investigating agency has reason to believe that the account or the money deposited therein has a nexus with the commission of the offence. The investigating agency can not freeze the bank account of any person merely because such person has business dealings or association with another individual allegedly connected with the crime.

6. Learned counsel would also place reliance upon the judgment of this Court in **Sandrio Steel and Alloys Private Limited v. State of Chhattisgarh**, W.P.(Cr.) Nos. 306/2022 and 313/2022, decided on 30.03.2022, and **Rajkumar Dammani v. State of Chhattisgarh**, 2024:CGHC:24609, and submit that the learned revisional Court has failed to exercise its jurisdiction in accordance with law and has mechanically affirmed the order passed by the learned trial Court without dealing with the specific grounds raised by the petitioner,

particularly the absence of any incriminating material, the non-inclusion of the petitioner in the charge-sheet and the prolonged freezing of his business account. It is, therefore, prayed that the impugned order passed by the learned revisional Court as well as the order dated 03.09.2024 passed by the learned Judicial Magistrate First Class be set aside and the respondents be directed to de-freeze the petitioner's bank account bearing Account No. 126805001487 maintained with ICICI Bank Ltd., Vishakhapatnam.

7. Per contra, learned State counsel would submit that the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is devoid of merit and deserves to be dismissed. It is submitted that Crime No. 685/2023 was registered at Police Station Khamtarai, Raipur, for the offences punishable under Sections 420 and 34 of the Indian Penal Code and Sections 7 and 8 of the Chhattisgarh Gambling Prohibition Act, 2022. After investigation, a charge-sheet was filed against 21 accused persons, while investigation against certain other absconding accused persons was continuing. Learned State counsel would further submit that during the course of investigation, suspicious financial transactions were noticed in the petitioner's bank account bearing No. 126805001487, maintained with ICICI Bank Ltd., and, therefore, the Station House Officer, Police Station Khamtarai, Raipur, issued a letter dated 25.08.2023 to the Regional Manager of the concerned bank requesting immediate freezing of the said account. During investigation, it was revealed that the petitioner was operating the aforesaid bank account through his mobile phone and online banking facilities, and substantial amounts had allegedly been deposited and

transferred through the said account in connection with the activities relating to the Mahadev App online gambling. Upon examination of the mobile phones seized from the accused persons, substantial financial transactions involving the petitioner's bank account came to light. For proper verification of the electronic evidence and tracing of the money trail, the seized mobile phones and laptops were forwarded to the State Cyber Cell and its report was awaited. Learned State counsel would fairly submit that although the petitioner has not been arrayed as an accused either in the FIR or in the charge-sheet filed so far, his prima facie involvement in the suspicious financial transactions cannot be ruled out. Therefore, the account was frozen as a precautionary measure to prevent further transfer or withdrawal of the suspected amount and to facilitate proper investigation. It is further submitted that the learned Judicial Magistrate First Class, after calling for the report from the concerned Station House Officer and considering the material placed before it, rejected the petitioner's application for de-freezing the account vide order dated 03.09.2024.

8. He would lastly submit that the petitioners, being aggrieved by the aforesaid order, preferred a criminal revision before the learned 10th Additional Sessions Judge, Raipur, which was dismissed vide order dated 26.10.2024 after examining the case diary, the material relating to the alleged financial transactions and the money trail involved in the crime. The freezing of the petitioner's bank account was not an arbitrary exercise of power but was necessitated by the suspicious transactions noticed during investigation, and permitting the petitioner to operate the account may prejudice the ongoing investigation. Learned State counsel would submit that the impugned order is a

reasoned judicial order passed after due consideration of the material available on record and does not suffer from any illegality, perversity or jurisdictional error warranting interference by this Court.

9. Learned counsel appearing for respondent No.2/ICICI Bank Ltd. would submit that respondent No.2 acknowledges that the petitioner's bank account bearing No.126805001487, maintained with its Vishakhapatnam Branch, was frozen pursuant to the directions issued by respondent No.1, Police Station Khamtarai, Raipur, seeking information regarding the said account and directing immediate freezing of its operations in connection with the criminal investigation. It is submitted that respondent No. 2 has acted solely in compliance with the directions issued by the police authority and has no independent knowledge regarding Crime No. 685/2023, registered at Police Station Khamtarai, Raipur, or the alleged involvement of the petitioners in the criminal activities under investigation. Learned counsel would further submit that respondent No. 2 is merely a banking institution and has neither initiated the criminal proceedings nor independently decided to freeze the petitioner's account. Its role is confined to implementing the directions received from the investigating agency and cooperating with the police authorities in accordance with law. The relevant particulars of the petitioner's bank account have also been placed on record as Annexure R/1.

10. He would further submit that the bank has acted bona fide and in discharge of its obligations as a financial institution and is not concerned with the merits of the criminal investigation or the allegations levelled against the petitioner. It is submitted that

respondent No. 2 has no objection to complying with any appropriate direction that may be issued by this Court regarding de-freezing of the petitioner's bank account. Learned counsel would submit that, in the event this Court directs restoration of the operation of account No. 126805001487, respondent No.2 shall immediately take necessary steps to implement such directions without any delay and in accordance with law.

11. I have heard learned counsel for the parties and perused the documents produced by the parties in the present case.

12. The question which arises for consideration is whether the continued debit-freezing of the petitioner's current account bearing No. 126805001487, maintained with ICICI Bank Ltd., is legally sustainable in the absence of any specific material demonstrating its nexus with the offences alleged in Crime No. 685/2023. At the outset, it is necessary to observe that the investigating agency is empowered to seize or freeze a bank account during investigation where the statutory requirements are satisfied. However, such power cannot be exercised mechanically or merely on the basis of an association of the account-holder with a person suspected of having committed an offence. The existence of a reasonable connection between the property sought to be seized and the alleged commission of the offence is the essential consideration.

13. In **Tapas D. Neogy** (supra), the Hon’ble Supreme Court has held that a bank account constitutes property within the meaning of Section 102 Cr.P.C. (Section 106 of the BNSS, 2023) and that the investigating officer is competent to seize or freeze such an account if it has a

direct link with the commission of the offence under investigation. It has been held that:-

> “12. Having considered the divergent views taken by different High Courts with regard to the power of seizure under Section 102 of the Code of Criminal Procedure, and whether the bank account can be held to be "property" within the meaning of the said Section 102(1), we see no justification to give any narrow interpretation to the provisions of the Criminal Procedure Code. It is well known that corruption in public offices has become so rampant that it has become difficult to cope up with the same. Then again the time consumed by the courts in concluding the trials is another factor which should be borne in mind in interpreting the provisions of Section 102 of the Criminal Procedure Code and the underlying object engrafted therein, inasmuch as if there can be no order of seizure of the bank account of the accused then the entire money deposited in a bank which is ultimately held in the trial to be the outcome of the illegal gratification, could be withdrawn by the accused and the courts would be powerless to get the said money which has any direct link with the commission of the offence committed by the accused as a public officer. We are, therefore, persuaded to take the view that the bank account of the accused or any of his relations is "property" within the meaning of Section 102 of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into. The contrary view expressed by the Karnataka, Gauhati and Allahabad High Courts, does not represent the correct law. It may also be seen that under the Prevention of Corruption Act, 1988, in the matter of imposition of fine under sub-section (2) of Section 13, the legislatures have provided that the courts in fixing the amount of fine shall take into consideration the amount or

> the value of the property which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of Section 13, the pecuniary resources or property for which the accused person is unable to account satisfactorily. The interpretation given by us in respect of the power of seizure under Section 102 of the Criminal Procedure Code is in accordance with the intention of the legislature engrafted in Section 16 of the Prevention of Corruption Act referred to above. In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court of Bombay committed error in holding that the police officer could not have seized the bank account or could not have issued any direction to the bank officer, prohibiting the account of the accused from being operated upon. Though we have laid down the law, but so far as the present case is concerned, the order impugned has already been given effect to and the accused has been operating his account, and so, we do not interfere with the same."

14. The said decision, however, does not confer an unrestricted power upon the investigating agency to freeze the account of any person merely because such person is associated with an accused or has had business dealings with him. The power has to be exercised on the basis of material giving the investigating officer reason to believe that the account or the money lying therein is connected with the offence. Further, Section 106(3) BNSS, 2023 (Section 102(3) of the Cr.P.C.) requires the police officer to forthwith report the seizure to the Magistrate having jurisdiction. Thus, the legality of the freezing action has to be examined with reference to the material forming the basis of the action as well as compliance with the statutory procedure. It is necessary here to notice the provision of Section 106 of the BNSS, 2023, which is as under:

"106. Power of police officer to seize certain property.

1. Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

2. Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

3. Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same:

Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 503 and 504 shall, as nearly as may be practicable, apply to the net proceeds of such sale."

15. The aforesaid legal position has been further explained by the Hon'ble Supreme Court in **Opto Circuit India Ltd. v. Axis Bank**, (2021) 6 SCC 707, wherein it has been held that when the statute prescribes a particular procedure for taking action, the authority is required to act in

that manner alone, and the action cannot subsequently be justified by supplying reasons which are not contained in the original communication. Therefore, the validity of the freezing action in the present case has to be tested with reference to the police communication and the material which formed the basis of the direction at the time it was issued. The investigating agency must demonstrate the factual basis for its belief that the account or the funds therein were connected with the alleged gambling transactions. It has been held that:-

> “14. This Court has time and again emphasised that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner alone and in no other manner. Among others, in a matter relating to the presentation of an election petition, as per the procedure prescribed under the Patna High Court Rules, this Court had an occasion to consider the Rules to find out as to what would be a valid presentation of an election petition in Chandra Kishore Jha v. Mahavir Prasad[1] and in the course of consideration observed as hereunder: (SCC p. 273, para 17)
>
> > "17.... It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner."
>
> Therefore, if the salutary principle is kept in perspective, in the instant case, though the authorised officer is vested with sufficient power; such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying with due process under law. We have found fault with the authorised officer and declared the action bad only insofar as not following the legal requirement

1. (1999) 8 SCC 266

before and after freezing the account. This shall not be construed as an opinion expressed on the merit of the allegation or any other aspect relating to the matter and the action initiated against the appellant and its Directors which is a matter to be taken note of in appropriate proceedings if at all any issue is raised by the aggrieved party."

16. In the present case, the State has sought to justify the freezing of the petitioner's account on the ground that substantial amounts were allegedly deposited and transferred through the said account in connection with the Mahadev App online gambling activities and that such transactions surfaced during examination of the mobile phones seized from the accused persons. It is also stated that the electronic devices were forwarded to the State Cyber Cell for examination and its report was awaited. The fact that the petitioners have not been arrayed as accused persons in the FIR or in the charge-sheet, by itself, would not invalidate the freezing of their bank account, if the investigating agency has material to establish that the account was utilised for the commission of the alleged offence or that the funds lying therein represent proceeds of such activity. Equally, however, the mere assertion of suspicious transactions, without disclosing their particulars or demonstrating the connection between the account and the alleged offence, cannot be treated as sufficient justification for continuing the debit freeze indefinitely. The relevant consideration is not merely whether the petitioner is an accused, but whether there exists material indicating a direct nexus between the account and the alleged criminal activity. Applying the aforesaid principles to the facts of the present case, the decisive consideration is whether the investigating agency has established such a nexus and whether the

entire account balance is required to be secured. Since the State has not disclosed the specific transactions, the amount suspected to be proceeds of the alleged offence, or the necessity for continuing a blanket debit freeze, the continued freezing of the entire business account cannot be justified merely on the ground that the investigation is kept pending.

17. This Court, vide order dated 14.07.2026, directed the State counsel to place on record the cyber forensic analysis report of the mobile phone of the accused Mohammad Farhan bearing Mobile No. 7000336554. In pursuance thereof, the State counsel submitted the cyber analysis report dated 18.07.2026 along with the covering memo dated 21.07.2026, in which the following report is set out:-

साइबर फोरेंसिक लैब

पुलिस मुख्यालय, अटल नगर, रायपुर-492002

क्रमांक / पु.मु./तक.से/समनि/साइबर लैब/C-/337/23/D/ 256/26

जांच प्रतिवेदन

दिनांक 18-07-2026

प्रति,
पुलिस उपायुक्त
जिला-रायपुर जोन उत्तर (छ०ग०)

विषय :- थाना खम्तराई जिला रायपुर के अप. क्र. 685/2023 धारा- 420 भादवि, जुआ प्रतिषेध अधिनियम 2022 की धारा 7 व 8 के प्रकरण में जप्तशुदा मोबाईल एवं सी.पी.यू. का परीक्षण विषयक।

संदर्भ :- क्रमांक- पुअ/रायपुर/साइबर सेल/994/2023 दिनांक 26/09/2023

विषयांतर्गत संदर्भित पत्र के माध्यम से लेख है कि थाना खम्तराई जिला रायपुर के अप. क्र. 685/2023 धारा- 420 भादवि, जुआ प्रतिषेध अधिनियम 2022 की धारा 7 व 8 के प्रकरण में जप्तशुदा मोबाईल एवं सी.पी.यू. से प्रकरण से महादेव एप व रेड्डी एप के माध्यम से इलेक्ट्रानिक डाईवाईसों का उपयोग कर ऑनलाईन सट्टा में पैसा लगाना निकालने के संबंध में जानकारी चाही गई है, जिसका जांच विवरण निम्नानुसार है-

क्रं.	जप्तशुदा सामग्री का विवरण	किससे जप्त किया गया	प्रयुक्त साफ्टवेयर	जांच विवरण
01	सीलबंद Oneplus कंपनी का मोबाईल है जिसका मॉडल नंबर LE2101 है एवं आई. एम. ई. आई. नंबर 866978054549290, 866978054549282 है तथा सिम नंबर 917000336554 लगा है।	प्रदर्श E आरोपी मो. फरहान	UFED VER-7.66.1.150	जप्तशुदा मोबाईल का परीक्षण UFED सिस्टम के माध्यम से File System Method से Extraction किया गया जिसमें Call Log, Contacts, Chat, Imo, Instagram, WhatsApp, WhatsApp Business, Downloads, Email, Installed Applications, Social Media, User Account, Web History, Timeline Image, Audio, Video, Documents संबंधी मौजूद एवं डिलीटेड फाईल डाटा रिट्रीव किया गया है।
02	सीलबंद Redmi कंपनी का मोबाईल है जिसका मॉडल नंबर M2006C3LI है एवं आई. एम. ई. आई. नंबर 862985050239309, 862985050239317 है।	प्रदर्श E-1 आरोपी मो. फरहान	UFED VER-7.66.1.150	जप्तशुदा मोबाईल का परीक्षण UFED सिस्टम के माध्यम से File System Method से Extraction किया गया जिसमें Call Log, Contacts, Chat, WhatsApp, Email, Installed Applications, User Account, Web History, Timeline Image, Audio, Video, Documents संबंधी फाईल डाटा रिट्रीव किया गया है।
03	सीलबंद VIVO कंपनी का मोबाईल है जिसका मॉडल नंबर V2214 है एवं आई. एम. ई. आई. नंबर 869017060724717, 8690170607247	प्रदर्श E-2 आरोपी मो. फरहान	UFED VER-7.66.1.150	जप्तशुदा मोबाईल का परीक्षण UFED सिस्टम के माध्यम से Method से Extraction किया गया जिसमें Call Log, Contacts, Chat, WhatsApp, Email,

	09 है तथा सिम नंबर 8602834731 एवं 917974151790 लगा है।			Installed Applications, User Account, Web History, Timeline Image, Audio, Video, Documents संबंधी मौजूद एवं डिलीटेड फाईल डाटा रिट्रीव किया गया है।
04	सीलबंद POCO कंपनी का मोबाईल है जिसका मॉडल नंबर 22041219PI है एवं आई. एम. ई. आई. नंबर 869198056754015, 869198056754023 है।	प्रदर्श E-3 आरोपी मो. फरहान	UFED VER-7.72.0.45	जप्तशुदा मोबाईल का परीक्षण UFED सिस्टम से Advanced Logical Method से Extraction किया गया जिसमें Installed Applications, Instant Messages, Timeline Image, Text, Documents संबंधी मौजूद फाईल डाटा रिट्रीव किया गया।
05	सीलबंद FOXIN कंपनी का सीपीयू में लगे DAICHI कंपनी का 128GB का एस.एस.डी. जिसका मॉडल नं. DSSD128 है।	प्रदर्श E-5 आरोपी मो. फरहान	FTK Imager VER. 4.3.1.1	जप्तशुदा सीपीयू में लगे एस.एस.डी. का FTK Imager साफ्टवेयर की सहायता से फोरेंसिक इमेज तैयार कर FTK साफ्टवेयर के माध्यम से Media Email, Office file एवं डिलीटेड डाटा संबंधी फाईल डाटा रिट्रीव किया गया।

चाही गई बिंदुवार जानकारी निम्नानुसार है-

01. जप्तशुदा प्रदर्श E, E1, E2, E3 एवं E5 से रिट्रीव डाटा में ऑनलाईन सट्टा ऐप (महादेव ऐप एवं रेड्डी ऐप) का नहीं होना पाया गया।

02. जप्तशुदा प्रदर्श E, E1, E2, E3 एवं E5 से रिट्रीव डाटा में व्हाट्सएप के माध्यम से ऑनलाईन सट्टा (महादेव ऐप एवं रेड्डी ऐप) खिलवाने / खेलने, संबंधी साक्ष्य का मौजूद नही होना पाया गया।

03. जप्तशुदा प्रदर्श E से रिट्रीव डाटा में विभिन्न एकाउंट में पैसों के लेन-देन संबंधी व्हाट्सएप चैट का मौजूद होना पाया गया है।

अतः जांच रिपोर्ट तथा डाटा Extraction रिपोर्ट मय पासवर्ड cyberlab पेनड्राईव्ह में संधारित एवं सीलबंद कर अग्रिम विधिवत् कार्यवाही हेतु सादर प्रेषित है।

संलग्न:-

1. सीलबंद जप्तशुदा प्रदर्श 05 नग।

2. रिट्रीव डाटा रिपोर्ट 01 नग 256 GB पेनड्राईव्ह।

3. साक्ष्य प्रमाण पत्र।

4. सील नमूना।

(हस्ताक्षर)
जांचकर्ता अधिकारी
(सरस्वती कुजूर)
उप निरीक्षक

18. From the above report, it is only surfaced that there are certain transactions between the accused Mohammad Farhan and the bank account of the others. There is no report about the quantum of the amount or any indication that the amount was the proceeds of crime.

19. This Court, in **Sandrio Steel and Alloys Private Limited** (supra), after referring to Tapas D. Neogy (supra), reiterated that a bank account is liable to be frozen under Section 102 Cr.P.C. where the requisite connection with the offence exists. Further, in **Rajkumar Dammani** (supra), this Court considered the continued freezing of bank accounts in the light of the object of investigation and the prejudice caused to the account-holders, and granted interim release of the amounts after finding that their continued retention would not serve any fruitful purpose in the facts of that case. These decisions, therefore, emphasise that although the investigating agency possesses the power to freeze a bank account, the necessity for its continued retention must be examined in the light of the material available and the purpose sought to be achieved by the seizure.

20. In the present case, the petitioners have placed reliance upon the bank statements for the period from 01.08.2022 to 10.09.2022, claiming that the transactions reflected therein were undertaken in the

ordinary course of business. On the other hand, the State has referred to certain transactions allegedly noticed during examination of the mobile phones seized from the accused persons. However, the respondent/State has not disclosed the specific dates, amounts, beneficiaries or particulars of the transactions which allegedly passed through the petitioner's account, nor does it indicate what part of the balance presently lying in the account is suspected to represent the proceeds of the alleged offence. The fact that the Cyber Cell report was awaited may explain the continuation of investigation, but it cannot, without any further material, furnish an indefinite justification for keeping the entire business account under debit freeze. Further, the communication dated 25.08.2023 referred to by the State and the communication dated 04.01.2024 relied upon by the petitioners require consideration in the context of the actual basis and scope of the freezing direction. The investigating agency was required to place before the competent Magistrate the seizure report as contemplated under Section 102(3) Cr.P.C. and the respondents were required to demonstrate compliance with the statutory procedure. In this regard, the principle laid down by the Supreme Court in **Opto Circuit India Ltd.** (supra) that an action must be sustained on the basis of the procedure prescribed by law and cannot be subsequently improved by furnishing additional grounds in the response before the Court, is also relevant. It is clarified that the said decision arose in the context of Section 17 of the Prevention of Money Laundering Act, 2002; however, the general principle regarding adherence to the procedure prescribed by statute remains applicable.

21. It is also relevant that the account in question is stated to be a current account maintained by the petitioner for his business activities and its continued debit-freezing has the effect of preventing him from carrying on ordinary banking transactions. Though the interest of the investigating agency in preserving suspected proceeds of crime cannot be overlooked, such interest has to be balanced against the prejudice caused to a person whose account is subjected to restraint. The power under Section 102 Cr.P.C. is intended to preserve property having a nexus with the alleged offence and not to impose an unrestricted or indefinite restraint upon the entire banking operations of a person without identifying the suspected amount or establishing the necessity for such restraint. If the investigating agency has identified any particular amount as being connected with the alleged offence, it may take appropriate steps in accordance with law to secure such amount, subject to the supervision of the competent Court. However, in the absence of particulars demonstrating the nexus of the entire account balance with the alleged offence, continuation of a blanket debit freeze would be disproportionate to the purpose of investigation.

22. In view of the aforesaid factual and legal position, this Court is of the considered opinion that the learned Courts below have not adequately examined whether the material placed by the investigating agency establishes the requisite nexus between the petitioner's bank account and the alleged offences, and whether the continued freezing of the entire account is necessary for the purpose of investigation. The impugned orders, therefore, cannot be sustained to the extent they

permit the continued blanket debit freeze without examining these aspects.

23. Accordingly, the petition deserves to be and is hereby **allowed** by setting aside the orders dated 03.09.2024 and 26.10.2024, with a direction to respondent No. 1 to forthwith take steps for de-freezing the petitioner's current bank account 126805001487 running in the ICICI Bank, Raipur, subject to the liberty of the investigating agency to proceed in accordance with law against any specific amount found, on the basis of cogent material, to be connected with the alleged offence and to seek appropriate orders from the jurisdictional Magistrate.

24. The observations made herein shall not be construed as an expression of opinion on the merits of the criminal case or the genuineness of the transactions, which shall be considered independently in accordance with law.

25. All the pending applications are hereby disposed of.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved