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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.405 of 2026

FIONA DSOUZA,
aged 35 years old,
R/o. 2nd floor Meera building,
next to IndusInd bank,
Presently residing at
Vasco address, H.no.19,
Near Vaddem lake,
Behind St Andrews college, … PETITIONER
Vasco, Goa, 403 802.

Versus.

1. STATE OF GOA
Through Police Inspector,
Maina Curtorim,
Police Station, Goa.

2. HDFC BANK,
Patto Branch, Panaji.

3. STATE OF GOA,
Through Public Prosecutor,
High court of Bombay at Goa.
Porvorim, Goa. … RESPONDENTS

Mr Balkrishna P. Sardessai (through VC) and Ms F. Pathan, Advocates for the Petitioner.

Mr Preetam Talaulikar, Additional Public Prosecutor for Respondent Nos.1 and 3 – State.

Mr Bhargav Khandeparkar, Advocate for Respondent No.2.

CORAM: ASHWIN D. BHOBE, J.

DATED: 28th OCTOBER 2026

ORAL JUDGMENT :-

1. Heard, Mr Balkrishna P. Sardessai, learned Advocate for the Petitioner, Mr Preetam Talaulikar, learned Additional Public Prosecutor for Respondent Nos.1 and 3 – State and Mr Bhargav Khandeparkar, learned Advocate for Respondent No.2.

2. Rule. Rule made returnable forthwith at the request of and with the consent of the parties Petition heard finally.

3. By this Petition filed under Article 227 of the Constitution of India, read with Section 528 of the BNSS, 2023, the Petitioner challenges the email-communication dated 15.06.2026 (Exhibit-B) from Respondent No. 2 -Bank, at the instance of Respondent No. 1 -Maina Curtorim Police Station, Maina -Goa which directs the freezing of the Petitioner's Bank Account No. 50100472770991 with HDFC Bank, Patao Branch, Panaji ('***said Account***').

4. The facts derived from the memo of this petition are that the Petitioner, residing at Panjim, Goa, is married to Balram Babu Karishetty and is presently experiencing marital discord with her husband. The Petitioner holds the said Account, her only operational bank account, through which she manages her EMIs, daily expenses and other financial obligations. Balram Babu Karishetty is accused of an offence for which an FIR has been registered and his whereabouts are currently unknown. There are no credits or debits in the said Account in the name of Balram

Babu Karishetty. Respondent No. 2, vide email dated 15.06.2026, informed the Petitioner that, at the instructions of Respondent No. 1, the said Account has been put on hold/frozen. The Petitioner received no communication in that regard from Respondent No. 1.

5. The email communication dated 15.06.2026 (Exhibit-B) is reproduced hereinbelow verbatim:

> *"* *Classification - Restricted*
>
> *Dear Madam,*
>
> *We would like to inform you that branch have received notice from Police station for freezing you bank account ending with xxxxxxxxxx0991. In this regards branch have marked freeze on the account as per the notice received."*

6. Mr Balkrishna P. Sardessai, learned Advocate for the Petitioner, submits that the said Account is the Petitioner's exclusive account and that Balram Babu Karishetty has no connection with it. He submits that the Petitioner did not receive any notice or intimation from Respondent No. 1 regarding the reason for directing the freezing of the said Account. He further submits that the Petitioner is not involved in any crime, therefore, the act of Respondent No.1 in freezing the said Account is illegal.

7. Mr Bhargav Khandeparkar, learned Advocate for Respondent No.2 – Bank, submits that Respondent No.2 received directions from Respondent No.1 to freeze the said Account. He further submits that the email dated 15.06.2026

implemented the directions received from Respondent No. 1 and notified the Petitioner accordingly.

8. Mr Preetam Talaulikar, learned Additional Public Prosecutor for Respondent Nos. 1 and 3, tenders a photostat copy of the letter dated 12.06.2026, issued by the Respondent No. 1-Police Sub-Inspector of Maina Curtorim Police Station to the Branch Manager of Respondent No.2, directing Respondent No.2 to furnish details of the said Account and to freeze the said Account. Photostat copy of the letter dated 12.06.2026 is taken on record and marked with "**X**" for identification. He submits that Respondent No. 1-Maina Curtorim Police Station has apprehensions that the said Account was used by Balram Babu Karishetty, an accused in Crime No. 21 of 2026 registered at Maina Curtorim Police Station, to transfer part of the amounts involved in Crime No. 21 of 2026 to the said Account.

9. Mr P. Talaulikar, learned Additional Public Prosecutor for Respondent Nos.1 and 3 – State, on instructions, fairly submits that the letter dated 12.06.2026 ('X') was not addressed to or issued to the Petitioner and was communicated directly to the Respondent No.2

10. From the facts recorded hereinabove, whether an apprehension, as expressed by Respondent No. 1-Maina Curtorim Police Station, or, for that matter, an offence committed by a bank account holder, constitutes a lawful basis for unilaterally freezing the bank account?

11. Neither Respondent No. 2 notified the Petitioner of the directions issued by Respondent No. 1, nor did Respondent No. 1 inform the Petitioner of the reasons for freezing the said Account or for putting its operations on hold.

12. Sections 106 and 107 of the Bharatiya Nagarik Suraksha Sanhita 2023, being relevant, are reproduced herein:

> *"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.*
>
> *107. Attachment, forfeiture or restoration of property.-*
>
> *(1) Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner*

of Police, make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property.

(2) If the Court or the Magistrate has reasons to believe, whether before or after taking evidence, that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of fourteen days as to why an order of attachment shall not be made.

(3) Where the notice issued to any person under sub-section (2) specifies any property as being held by any other person on behalf of such person, a copy of the notice shall also be served upon such other person.

(4) The Court or the Magistrate may, after considering the explanation, if any, to the show-cause notice issued under sub-section (2) and the material fact available before such Court or Magistrate and after giving a reasonable opportunity of being heard to such person or persons, may pass an order of attachment, in respect of those properties which are found to be the proceeds of crime:

Provided that if such person does not appear before the Court or the Magistrate or represent his case before the Court or Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Magistrate may proceed to pass the ex parte order.

(5) Notwithstanding anything contained in sub-section (2), if the Court or the Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Magistrate may by an interim order passed ex parte direct attachment or seizure of such property, and such order shall remain in force till an order under sub-section (6) is passed.

(6) If the Court or the Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Magistrate shall by order direct the District Magistrate to rateably distribute such proceeds of crime to the persons who are affected by such crime.

(7) On receipt of an order passed under sub-section (6), the District Magistrate shall, within a period of sixty days distribute the proceeds of crime either by himself or authorise any officer subordinate to him to effect such distribution.

(8) If there are no claimants to receive such proceeds or no claimant is ascertainable or there is any surplus after satisfying the

claimants, such proceeds of crime shall stand forfeited to the Government."

13. The High Court of Delhi recently, in *Malabar Gold and Diamond Limited and Others v/s. Union of India and Others*[1], considered the powers of the Police under sections 106 and 107 of BNSS 2023 in the context of freezing of bank account. Paragraphs 13 to 18 read thus:-

> *" **13.** While interpreting the scheme of aforenoted sections of the BNSS, High Court of Kerala at Ernakulam, in Headstar Global Pvt. Ltd. V. State of Kerela1, has held, inter alia, that freezing of bank accounts must be proportionate, reasoned, and supported by material indicating the account holder's involvement in the alleged offence. The relevant extract of the aforenoted decision reads as under:-*
>
> > *"12. Going by Section 107 of BNSS, a police officer investigating a crime has to approach the jurisdictional Magistrate seeking attachment of any property believed to be derived directly or indirectly from criminal activity or the commission of an offence. The Magistrate may thereupon order attachment after hearing all parties concerned or issue an interim order for attachment, if issuing notice to the owner will defeat the purpose of attachment and seizure. After confirming that the attached property is the proceeds of crime, the Magistrate can direct the District Magistrate to distribute the property among those affected by the crime. Thus Section 107 confers the jurisdictional Magistrates with explicit authority to act swiftly in cases involving proceeds of crime.*
> >
> > *13. Another aspect of importance is that, while Section 106 speaks of seizure, Section 107 deals with attachment, forfeiture and restoration. Seizure under Section 106 can be carried out by a police officer and an ex post facto report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon the orders of the*

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Magistrate. The logic behind this distinction being that the purpose of seizure is more to secure the evidence during an investigation, whereas attachment is intended to secure the proceeds of crime by preventing its disposal and thus ensuring its availability for legal procedure such as forfeiture and distribution to the victim/s.

14. In the case at hand, the reason for directing the bank to debit freeze the petitioner's account, as stated in Annexure B notice is the transfer of some amount from the account of the accused to the account of the company Headstar Trading LLP and from there to the petitioner's account. Even accepting that the Directors of the above mentioned three entities are known to each other or are related to each other, it may, at best, indicate that the money in the petitioner's account is proceeds of the crime committed by the accused. If so, the amount can be attached or the account frozen only by following the procedure prescribed in Section 107 of BNSS."

14. *The aforenoted judgment was challenged before the Supreme Court in SLP being SLP (Cri.) No. 13433/2025, where the Supreme Court declined to exercise the jurisdiction under Article 136 of the Constitution.*

15. *In Kartik Yogeshwar Chatur v. Union of India, the Bombay High Court, while relying on the decision of the High Court of Kerala at Ernakulam in Headstar Global, held that an Investigating Agency has no power to debit freeze or attach a bank account under Section 106 of the BNSS, and that any such action can be taken only in accordance with Section 107 of the BNSS upon orders of the competent Magistrate. The relevant extract of the aforementioned decision reads as under: -*

"13. That being so, the law stands well settled that under Section 106 of the BNSS, an Investigating Agency has no power to attach or debit freeze an account.

14. In that view of the matter, the orders, which are passed by the Investigating Agency in respective petitions under Section 106 of the BNSS are liable to be quashed and set aside.

15. We may note here that there is, in place system to deal with the financial fraud, which is titled as 'Citizen Financial

Cyber Frauds Reporting and Management System'. This system has been published by the Indian Cybercrime Coordination Centre, which comes under the Ministry of Home Affairs, Government of India. Our attention is invited to FAQs, particularly, FAQ No. 21. The said question and answer would throw further light as to how Banks should deal with reports/communications received from an Investigating Agency. FAQ No. 21 and its answer reads as under:

> *"21. Whether the Bank can block/withhold the funds on the basis of the complaint's acknowledgement number that gets reported on the helpline number or NCRP ? Yes, Bank/intermediaries can put the disputed amount on lien on the basis of the complaint's acknowledgement number so that amount can be refunded later, after investigation of the complaint by concerned State/Uts LEAs."*

16. *As could be seen, Bank/intermediaries can put the disputed amount on lien, but cannot debit freeze the account.*

17. *Despite such status, some Banks upon receiving certain communications from Investigating Agency, which does not even call for debit freezing accounts, are proceeding to debit freeze the accounts of the account holders resulting into losses to their day-today affairs.*

18. *Put all together, it is abundantly clear that an Investigating Agency has no power of attachment/debit freezing a Bank Account under Section 106 of the BNSS."*

14. Upon query to Mr Talaulikar, learned Additional Public Prosecutor for Respondent Nos. 1 and 3 – State, as to whether the provisions of Section 107 of BNSS 2023 were followed by the Maina Curtorim Police Station prior to the issuance of the instructions to Respondent No. 2, Mr P. Talaulikar, on instructions from Respondent No. 1 – Maina Curtorim Police Station, answers in the negative.

15. Freezing of a bank account must be proportionate, reasoned and supported by material evidence of the account holder's involvement in an offence. The letter dated 12.06.2026 ('X') neither refers to the Petitioner as an accused in Crime No. 21 of 2026 nor shows the Petitioner's complicity. The unilateral freezing of the said Account restrained the operations of the said Account, which the Petitioner was otherwise legally entitled to operate. In the facts and circumstances of this case, continued freezing of the said Account has caused prejudice to the Petitioner.

16. For the aforesaid reasons, the action of the Respondent No.1-Maina Curtorim Police Station, being non-compliant with the provisions of law, is required to be quashed and set aside.

17. Though the letter dated 12.06.2026 ('X') issued by Respondent No.1, Maina Curtorim Police Station, is not on record, as rightly submitted by Mr B. P. Sardessai, learned Advocate for the Petitioner, as the same was not served on the Petitioner, Mr P. Talaulikar, learned APP, having produced the said letter, the same is, to the extent of the directions to freeze the said Account, quashed.

18. Consequently, this Petition is allowed with the following directions:-

a. The Respondent No. 1, Maina Curtorim Police Station, shall forthwith issue appropriate directions to the Respondent No. 2-Bank, to defreeze the said Account.

b. The email-communication dated 15.06.2026 (Exhibit-B) issued by Respondent No. 2 – Bank to the Petitioner is quashed and set aside.

19. At this stage, Mr Preetam Talaulikar, learned Additional Public Prosecutor for Respondent Nos. 1 and 3, submits that liberty be granted to Respondent No. 1-Maina Curtorim Police Station to take appropriate steps in accordance with law in respect of the said Account. Respondent No. 1-Maina Curtorim Police Station is at liberty to proceed with its investigation in Crime No. 21 of 2026 / to initiate action for seizure, attachment, etc., in accordance with the provisions of law.

20. It is clarified that the observations made herein are confined to the issue addressed.

21. Rule is made absolute in the aforesaid terms.

22. Criminal Writ Petition No.405/2026 is disposed of.

23. No orders as to costs.

ASHWIN D. BHOBE, J.

Signed by: SUCHITRA NANDAN SINGBAL
Designation: Personal Assistant
Date: 31/10/2026 11:10:10