



\$~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3664/2025 & CRL.M.A. 32967/2025**

AWDHESH YADAV

.....Petitioner

Through: Counsel (appearance not given).

versus

STATE (GOVT. OF NCT OF DELHI) AND ANRRespondents

Through: Mr. Amol Sinha, ASC for the State.

SI Chandra Sehkhari, P.S.: ANS West.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

05.02.2026

%

By way of the present petition filed under Article 226 of the Constitution of India read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner seeks directions to the respondents for 'de-freezing' his account bearing No. 467410110001063 at the Bank of India, Rasulpur, Bihar.

2. The account has been frozen in the proceedings in case FIR No.240/2022 dated 04.05.2022 registered under sections 20/25 Narcotics Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') at P.S.: Naraina, West Delhi.
3. Before approaching this court, the petitioner had moved an application before the learned Special Judge, which came to be dismissed *vide* order dated 13.08.2025, which has led the petitioner to approach this court in its extraordinary jurisdiction under Article 226 of the Constitution of India.
4. The petitioner's case before the learned Special Judge, as narrated in order dated 13.08.2025, was the following :



*“This is an application moved on behalf of applicant/accused seeking de-freezing of the bank accounts, which were allegedly frozen by the IO during the investigation of the present case. As per the Ld. Counsel, there has been non compliance of the proviso of Section 68 F of NDPS Act, since the IO never informed the competent authority of the order of freezing, within 48 hours of it being made. The Ld. Counsel has placed reliance upon the decision of Hon’ble High Court of Delhi in “**Vikas Kumar Vs. DRI**”, WP Criminal 835 of 2010, date of decision 07.12.2010.”*

5. While dealing with the aforesaid contention the learned Special Judge has dismissed the application as not maintainable, with the following observations :

“The Ld. Addl. PP for the State has strongly objected to the prayer made by the applicant/accused in the present case on the ground that as far as any order passed under Chapter VA of the Act, the competent forum is SAFEMA Appellate Tribunal, Constituted u/s 68N and the appeals would lie to the said Tribunal u/s 68 O of the Act.”

6. Though the learned Special Judge has also observed in the order that the judgment in **Vikas Kumar vs. D.R.I.**¹, was passed by a Co-ordinate Bench of this court in exercise of its extraordinary writ jurisdiction, in the course of hearing, Mr. Kshitij Garg, learned counsel appearing on behalf of Mr. Amol Sinha, learned ASC for the State submits, that the judgment of the Co-ordinate Bench in *Vikas Kumar* would no longer help the petitioner, since the said judgment was passed on 07.12.2010 but thereafter the NDPS Act has been amended *inter-alia* establishing an appellate tribunal under section 68(N) with effect from 01.06.2016, which provision reads as follows :

“68N. Constitution of Appellate Tribunal.—The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of

¹ 2010:DHC:5930



Property) Act, 1976 (13 of 1976) shall be the Appellate Tribunal for hearing appeals against the orders made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L.”

7. Mr. Garg submits, that since it is the petitioner's own case that the order freezing the account has been passed by the Investigating Officer ('I.O.') in exercise of his power under section 68(F) of the NDPS Act, the petitioner has a statutory remedy available under section 68(N) of the NDPS Act; and the present petition may not be entertained.
8. Learned counsel for the petitioner however submits, that it is the petitioner's case that the I.O. did not comply with the requirements of section 68(F)(2) of the NDPS Act, since he did not obtain a confirmation from the competent authority with respect to freezing of the account; and therefore, the order directing freezing of the account cannot be treated as an order under section 68(F) of the NDPS Act and would therefore not be amenable to an appeal before the appellate tribunal under section 68(N) of the NDPS Act.
9. Upon considering the rival submissions made, this court is of the view that non-compliance with the provisions of section 68(F) of the NDPS Act, as contended by the petitioner, would itself be a ground of appeal against an order made under section 68(F) of the NDPS Act; which appeal would lie before the appellate tribunal constituted under section 12(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
10. Since the petitioner has not exhausted the statutory remedy available to him under section 68(N) of the NDPS Act, this court finds no justification in entertaining the present petition, which is accordingly dismissed at the stage of issuance of notice itself.



11. Pending applications, if any, also stand disposed-of.
12. Nothing in this order shall prejudice the rights and contention of the petitioner in relation to the merits of the order passed by the I.O.
13. Needless to add, that the petitioner shall also be at liberty to invoke all his remedies as may be available to him, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 5, 2026
ds