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

\+ **W.P.(C) 19715/2025 and CM APPL. 82336/2025**

Date of Decision: **17.02.2026**

CAPTAIN RAKESH WALIA(RETD.) AND ANR.

.....Petitioners

(Through: Mr. Devadipta Das, Mr. Chaitanya Poonia, Advocates.)

versus

UNION OF INDIA AND ORS. .....Respondents

(Through: Ms Arunima Dwivedi CGSC, Ms Himanshi Singh, Ms Monalisha Pradhan, Ms Priya Khurana Advocates for R-1. Mr Amol Sharma and Mr Ateev Mathur Advocates for R-3.)

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

The instant writ petition has been filed assailing the imposition of lien dated 19.07.2025 and subsequent complete freezing dated 08.12.2025 of ICICI Bank Account No. 00290150349 (*subject account*) maintained by the petitioners with respondent No.3-ICICI Bank Ltd.

1. It is the case of the petitioners that the said freezing has been, allegedly, imposed at the instance of respondent No.2-Maharashtra Police, without disclosure of grounds, without issuance of any written order, and

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without affording any opportunity of hearing, in violation of Articles 14, 19 and 21 of the Constitution of India.

2. It is stated that the Petitioners are senior citizens. Petitioner No.1 is a 65-year-old retired Army officer and petitioner No.2, his wife, aged 61 years, is critically ill and completely bedridden and dependent on continuous oxygen support.

3. The facts manifest that on 11.07.2025, a sum of ₹24,78,950/- (Rupees Twenty Four Lakh Seventy-Eight Thousand Nine Hundred and Fifty only) was credited into the subject account through RTGS from M/s Aramco Diamond & Gold, Karol Bagh, New Delhi, towards sale of personal jewellery. Thereafter, on 19.07.2025, the petitioners received an SMS from Respondent No.3 stating that a lien of ₹2,02,345/- (Rupees Two Lakh Two Thousand Three Hundred and Forty Five only) (*Serial no. 16 of the complaint received by r-2*) had been marked on the account pursuant to alleged directions from respondent No.2.

4. It is the case of the petitioners that no written communication, complaint details, FIR particulars or statutory order were furnished. Thereafter, on 08.12.2025, the petitioners were further informed that the account had been completely frozen for "Regulatory/Other reasons," thereby converting the earlier lien into a total debit freeze.

5. *Per contra*, Respondent No.3, ICICI Bank Ltd., submits that it marked a lien of ₹2,02,345/- on the Petitioner's account on 19.07.2025 pursuant to a complaint received through the National Cyber Crime

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Reporting Portal from Maharashtra Thane City Police regarding an alleged fraudulent RTGS transaction. The Bank states that it conducted due diligence, found the account inactive with a balance of ₹34,119/- as on 30.01.2026. After making an attempt through physical and telephonic verification, they imposed a complete debit freeze on 08.12.2025 with SMS intimation to the petitioners.

6. Thereafter, it is the stand of the bank that the petitioners duly visited the bank and have complied with the Know Your Customer.

7. Heard learned counsel for the parties and have perused the record.

8. The issue is squarely covered by the decision of this Court in ***Malabar Gold and Diamond Limited & Ors. v. Union of India & Ors.,***[1] wherein the Court clarified that freezing or attachment, being measures to secure alleged proceeds of crime, can be undertaken only under the provisions of Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and strictly pursuant to an order of the competent Magistrate after following statutory safeguards. An investigating agency has no independent power to direct a debit freeze under Section 106.

9. In the present case, no order under Section 107 of BNSS has been produced, nor is any Magistrate's approval shown. The petitioners were not furnished with complaint details, FIR particulars, or any written direction forming the basis of the action. Though a lien of ₹2,02,345/- was initially marked, the subsequent blanket debit freeze of the entire account is

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unsupported by any sanction and thus falls outside the statutory framework governing the freezing of accounts.

10. In ***Malabar Gold***, it was also emphasized that freezing must be proportionate and based on material indicating the account holder's complicity in the alleged cyber fraud. It was also reiterated that innocent account holders cannot be penalised merely because disputed funds have passed through their accounts. The relevant extract of the aforenoted decision reads as under:-

> *"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:-*
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> > *"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.*
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> > *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,*

[1] W.P.(C) 4198/2025 dt. 16.01.2025

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attachment under Section 107 can be effected only upon the orders of the 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 1 2025 SCC OnLine Ker 3546 This is a digitally signed order. The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26/01/2026 at 12:33:41 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 India2 , 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

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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.

19. The Investigating Agency may, however, proceed in terms of Section 107 of the BNSS to debit freeze or attach a Bank Account."

16. Recently, this Court in Neelkanth Pharma Logistics (P) Ltd. v. Union of India, 3 observed that freezing of an entire bank account merely on account of a small and identifiable amount alleged to be proceeds of cyber fraud having been credited therein, is a disproportionate and arbitrary exercise of power, particularly when the account holder is neither an accused nor even a suspect in the offence

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under investigation. The Court emphasised that such blanket freezing, without recording or communicating any reasons, results in grave civil and financial consequences, including disruption of business operations, dishonour of cheques and severe hardship, and directly impinges upon the right to livelihood.

17. The Court further observed that innocent and unwary account holders cannot be made to suffer merely because proceeds of crime may have temporarily passed through their accounts, unless investigation reveals their complicity or conscious receipt of such funds. More importantly, taking note of the recurring nature of such cases across various High Courts, the Court urged the Ministry of Home Affairs, Government of India, to frame uniform policies, standard operating procedures and guidelines, in consultation with all stakeholders, to strike a balance between effective investigation of cybercrime and protection of the rights and livelihoods of innocent account holders.

18. Thus, it is fairly trite now that Section 106 of the BNSS empowers the police only to seize property for evidentiary purposes and does not confer any authority to attach or debit-freeze bank accounts. Attachment or freezing of bank accounts, being measures directed at securing alleged proceeds of crime, can be undertaken only under Section 107 of the BNSS and strictly upon orders of a competent Magistrate, after following the prescribed procedural safeguards.

19. In light of these provisions, it is also pertinent to note that any blanket or disproportionate freezing of bank accounts, particularly where the account holder is neither an accused nor even a suspect in the offence under investigation, is manifestly arbitrary, and in the teeth of the fundamental rights under Article 19(1)(g) and 21 and of the Constitution of India, which encompass the right to livelihood and freedom to carry on trade and business. Such indiscriminate debit freezing, without any finding of complicity, has the inevitable effect of paralysing the day-to-day business operations of an otherwise innocent entity, resulting in loss of commercial goodwill and financial consequences, thereby subjecting a non-complicit account holder to punitive consequences."

11. In the present case, the petitioners are neither accused nor shown to be suspects, and only a limited sum is alleged to be disputed. Freezing the entire account is therefore manifestly disproportionate.

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12. Accordingly, the continued blanket freeze, in the absence of compliance with Section 107 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS), is unsustainable in law. The petition is disposed of with the following directions:-

i) Respondent no. 3 to defreeze the account of the petitioners

ii) If any enforcement or investigating agency proposes to initiate or is conducting an investigation against the petitioners, it shall be at liberty to do so in accordance with the provisions of the BNSS, and the petitioners undertake to fully cooperate with such investigation.

iii) In the event of finding a positive and specific material indicating the petitioners' complicity, respondent no.2 shall be at liberty to pass fresh direction in accordance with law.

PURUSHAINDRA KUMAR KAURAV
(JUDGE)

FEBRUARY 17, 2026
Nc/amg

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