



2025:AHC:190289-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37053 of 2025

Marufa Begum

.....Petitioner(s)

Versus

Union Of India And 5 Others

.....Respondent(s)

Counsel for Petitioner(s) : Anoop Kumar Sharma, Vikas Rastogi
Counsel for Respondent(s) : A.S.G.I., Anadi Krishna Narayana,
C.S.C.

A.F.R.

Court No. - 4

HON'BLE AJIT KUMAR, J.

HON'BLE SWARUPAMA CHATURVEDI, J.

Per Swarupama Chaturvedi, J.

1. Heard Sri Vikas Rastogi, learned counsel for the petitioner, Sri Shailesh Kumar Pandey, learned panel counsel for the respondent-Bank and Sri Pradeep Kumar Shahi, learned Additional Chief Standing Counsel for the State respondents.

2. This petition is filed under Article 226 of the Constitution of India against the action of freezing of the bank account of petitioner by the respondent bank with the prayer to issue a writ in the nature of mandamus directing respondent bank (Respondent no. 5) to defreeze the Saving Account No. 43390100002893 of Bank of Baroda, Branch Imamganj, Mooratganj, District-Kaushambi and to permit the petitioner to withdraw the amount from her aforesaid account.

3. Learned counsel for the petitioner submits that the petitioner is employed as a Shikshamitra (Teacher) at Prathmik Vidyalaya, Sakhadha, Block Mooratganj, District Kaushambi. The salary of the petitioner is credited into her savings account maintained with Bank of Baroda, Imamganj Branch, Mooratganj, bearing Account No. 43390100002893. It is stated that on 01.09.2022, an amount of Rs. 35,000/- was credited to the

said account from Account No. 99980103448713, IFSC FDRL0001306, maintained with Federal Bank, Puthiyara Branch (Gujarat). Subsequently, the petitioner's aforesaid account was freezed by the respondent Bank. It is further submitted that upon inquiry, the petitioner was orally informed by the officials of the respondent Bank that the said amount of Rs. 35,000/- had been transferred by one Mustaq Ali and that the Anand Cyber Crime Branch, Gujarat Police, had directed the Bank to block the petitioner's account in connection with the aforesaid transaction.

4. Learned counsel for the petitioner further submits that the petitioner had given applications to the respondent bank stating that she neither knew the aforesaid person who has transferred the amount, nor had any concern with the alleged transaction, and she requested the bank to open the account of the petitioner. She also approached the authorities in the bank and requested for the de-freezing of the account.

5. Per contra learned counsel appearing for the respondent bank has submitted on instructions that the account of the petitioner was freezed on instruction of the Cyber Crime Department, Anand, Gujarat and the Bank cannot de-freeze the account without prior approval of the Cyber Crime Department, or the order of the competent court, as the matter is still under investigation and the account in question is "property" under investigation.

6. Learned Additional Chief Standing Counsel, appearing on behalf of the State-respondents, opposes the reliefs sought in the writ petition and submits that where a bank has freezed an account in connection with an ongoing investigation, the primary consideration is whether the officer directing such freezing of account has acted in accordance with the procedure prescribed under Section 106 of the Bhartiya Nyaya Suraksha Sanhita, 2023 (corresponding to Section 102 of the Code of Criminal Procedure, 1973). He has also placed reliance upon the judgement of the Supreme Court in the case of ***Teesta Atul Setalvad vs. The State of Gujarat (2018) 2 SCC 372*** where it was held by the Supreme Court that if the officer concerned has followed the procedure prescribed in Section 102 Cr.P.C. (present Section 106 BNSS) then freezing of the account by the Bank is legally justified.

7. Having heard learned counsel for the petitioner, learned counsel for the bank and learned Additional Chief Standing Counsel representing the State respondents, and upon perusal of the record, we find that the facts, as presented, are not in dispute to the extent that the petitioner's bank account has been freezed pursuant to directions issued by the investigating authorities in connection with a transaction alleged to have originated from an account unknown to the petitioner, and the transaction is suspicious in eyes of concerned investigating agency.

8. So, the question that arises for our consideration is, whether the bank was justified in freezing the bank account of the petitioner, and whether the continued freezing of the account is justified in the facts of the present case, especially when the petitioner had taken steps for having a new salary account with another bank, after the account in question got freezed.

9. We have gone through Section 106 of Bhartiya Nyaya Suraksha Sanhita, 2023 and the judgement referred by learned counsel. The Supreme Court in the case of ***Teesta Atul Setalvad vs. The State of Gujarat (2018) 2 SCC 372***, examined and uphold the justness of the action of the investigating officer in the context of the bank account freezing and observed that :

" 25. Suffice it to observe that as the Investigating Officer was in possession of materials pointing out circumstances which create suspicion of the commission of an offence, in particular, the one under investigation and he having exercised powers Under Section 102 of the Code, which he could, in law, therefore, could legitimately seize the bank accounts of the Appellants after following the procedure prescribed in Sub-section (2) and Sub-section (3) of the same provision. As aforementioned, ...and thus complied with the requirement of Sub-section (3)."

10. Thus, in the event police comes to conclude that during investigation a bank account is to be freezed for suspicious transaction, it can always direct the bank to freeze such bank account. And of course, such freezing of the account shall depend upon the outcome of investigation. The

affected party can of course, seek remedy from the Magistrate concerned after the investigation is concluded and if chargesheet is filed, to limit freezing of account to the extent of money involved.

11. We consider it appropriate to reproduce Section 102 Cr.P.C. now reincorporated as Section 106 BNSS, as under:-

"102. 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 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

12. This provision is incorporated *verbatim* under Section 106 of Bhartiya Nyaya Suraksha Sanhita, 2023. From a bare reading of the aforesaid provision it is clear that a police officer is entitled to seize property of accused persons during investigation by passing orders and the only duty

is to report such seizure to Magistrate concerned. There is no obligation cast upon police to seek prior order from Magistrate for seizure of property.

13. In the totality of the facts and circumstances of the case and in the light of legal position as discussed above, in our considered view respondent bank has acted in accordance with law in freezing the petitioner's account pursuant to the directions issued and request made by the Cyber Crime Department and if the petitioner is aggrieved by freezing and wants to get her account defreezed, it is open to her to approach the investigating authorities or a court of competent jurisdiction for appropriate relief in accordance with law as observed above. Hence, we do not find any good ground to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India to grant relief as prayed for.

14. Accordingly, the writ petition is consigned to records with liberty to the petitioner to avail such remedies as may be available to her in law.

(Swarupama Chaturvedi,J.) (Ajit Kumar,J.)

October 29, 2025
Kirti