

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 12211 of 2025

Khalsa Medical Store Thru. Prop. Yashwant Singh

.....Petitioner(s)

Versus

Reserve Bank Of India Thru. Governor And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Jalaj Kumar Gupta
Counsel for Respondent(s)	:	Amit Jaiswal Ojus Law

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE MANJIVE SHUKLA, J.**

(Judgement dictated in open court by Shekhar B. Saraf J.)

1. Heard Shri Jalaj Kumar Gupta, learned counsel for the petitioner and Shri Amit Jaiswal Ojus, learned counsel appearing for the Axis Bank.
2. In spite of several notices given to the Investigating Officer, Police Station Cyber Crime, Rachakonda, Hyderabad, Telangana, none has appeared on behalf of the same.
3. The office report indicates that service of the previous orders has been done upon the Respondent No. 4.
4. Learned counsel appearing on behalf of the Axis Bank has fairly submitted that till date, they have neither received any seizure order from the Respondent No. 4, nor received any indication as to the amount that is required to be put in lien with regard to the petitioner's bank account. Shri Amit Jaiswal refers to the notice under Section 94/106 of the B.N.S.S., 2023 received by the Bank on November 21, 2025, that has sought for debit freeze of the account of the petitioner. No further documents have been received by the bank in spite of several letters written by the bank to the Investigating Officer concerned. He has further relied upon the judgment of the Rajasthan High Court that has specifically dealt with this issue in great detail in the case of **Dharmendra Chawra Harish Bhai Vs. State of Rajasthan** passed in S.B. Criminal Miscellaneous

Application No. 557 of 2025, wherein certain directions have been issued in relation to how an account may be seized as per Section 106 read with Section 94 of the BNSS.

5. Before proceeding to come to a finding as to whether the action of the respondents is in consonance with the law, one needs to place on record the provision under which the present actions have been initiated. Ergo, Section 106 and Section 94 of the B.N.S.S., 2023 are delineated below:-

"106. (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 505 and 506 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

94. (1) Whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita Appeal from order rejecting application for restoration of attached property. Issue of warrant in lieu of, or in addition to, summons.

Power to take bond for appearance. Arrest on breach of bond for appearance. Provisions of this Chapter generally applicable to summonses and warrants of arrest. Summons to produce document or other thing. 5 10 15 20 25 30 35 40 45 27 by or before such Court or officer, such Court or officer may, by a written order, either in physical form or in electronic form, require the person in whose possession or power such document or thing is believed to be, to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document, or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

(a) to affect sections 129 and 130 of the Bharatiya Sakshya Adhiniyam, 2023 or the Bankers' Books Evidence Act, 1891; or

(b) to apply to a letter, postcard, or other document or any parcel or thing in the custody of the postal authority."

6. It is also imperative to bring on record the intimation of debit freeze issued by the investigating officer to the respondent- Bank. The same is extracted below:-

"NOTICE U/S 94/106 BNSS

It is directed to DEBIT FREEZE Account bearing A/C No.- :917030037515043, Ifsc Code:-UTIB0000291 as required for investigation in Cr.No:520/2025 of Cyber Crime Police Station, Rachakonda, Hyderabad, Telangana. The account holder using this account for fraudulent transfers of money from the victim account to this account. Also, the following details be provided through email.

- 1. Statement of account, from date of opening to till today.*
- 2. Scanned copy of Account Opening Form along with documents submitted as proof of Identity & address.*
- 3. Mobile number, email address, PAN, ATM card number(s) & Aadhaar number linked to the account.*
- 4. The balance in the account.*

5. *If any Notice(s) was/were received from any Law Enforcement Agency/Agencies earlier, the details of the sender be shared with us (Police station name and investigation officer details).*

6. *Provide the Branch details (Branch manager contact details).*

7. *Provide the Login & Logout IP details of Internet Banking/Mobile Banking for last (03) months.*

8. *Provide the Sec.65(B) I.E.Act certificate with above information and sent hard copies to the below mentioned address.*

9. *Also provide the NEFT, RTGS, IMPS and UPI transactions for both Source and Beneficiary transactions. The details required be provided on priority."*

7. The Supreme Court in **State of Maharashtra v. Tapas D. Neogy** reported in (1999) 7 SCC 685 has given a wide interpretation to the word 'Property' used in Section 102 of CrPC/ Section 106 of B.N.S.S. and categorically held that a bank account is a property and police officer in course of investigation can seize or prohibit the operation of the said account if there is a suspicion with relation to any offence. The relevant paragraph of the judgment is quoted herein below:

"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."

8. The Supreme Court in **Teesta Atul Setalvad v. State of Gujarat** reported in (2018) 2 SCC 372 has expounded that prior notice is not required before or simultaneously attaching a bank account but a post facto report is mandatorily required to be submitted to the jurisdictional magistrate. The relevant paragraph of the judgment is quoted hereinbelow:

*"20. As regards the procedure for issuing instructions to freeze the bank accounts, it is noticed that the same has been followed by giving intimation to the Magistrate concerned on 21-11-2014 as required in terms of Section 102 of the Code. There is nothing in Section 102 which mandates giving of prior notice to the account-holder before the seizure of his bank account. The Magistrate after noticing that the principle stated by the Division Bench of the Bombay High Court in *Shashikant D. Karnik v. State of Maharashtra* [*Shashikant D. Karnik v. State of Maharashtra*, 2008 Cri LJ 148 (Bom)] has been overruled in terms of the Full Bench judgment of the Bombay High Court in *Vinodkumar Ramachandran Valluvar* [*Vinodkumar Ramachandran Valluvar v. State of Maharashtra*, 2011 SCC OnLine Bom 402 : 2011 Cri LJ 2522] , rightly*

negatived that contention. The Full Bench of the Bombay High Court has expounded that Section 102 does not require issuance of notice to a person before or simultaneously with the action attaching his bank account. In Adarsh Coop. Housing Society Ltd. v. Union of India [Adarsh Coop. Housing Society Ltd. v. Union of India, 2011 SCC OnLine Bom 974 : 2012 Cri LJ 520] , the Division Bench of the Bombay High Court once again considered the issue and rejected the argument that prior notice to the account-holder was required to be given before seizure of his bank account. It also noted that the bank account need not be only of the accused but it can be any account creating suspicion about the commission of an offence. The view so taken commends us."

9. The Supreme Court in **Nevada Properties (P) Ltd. v. State of Maharashtra** reported in (2019) 20 SCC 119 has held that Section 102 of CrPC should not be interpreted to empower police officers to intervene in money disputes by seizing property especially based on mere suspicion but it must be bolstered by 'reasonable belief'. The relevant paragraph of the judgment is quoted hereinbelow:

"31. The expression "circumstances which create suspicion of the commission of any offence" in Section 102 does not refer to a firm opinion or an adjudication/finding by a police officer to ascertain whether or not "any property" is required to be seized. The word "suspicion" is a weaker and a broader expression than "reasonable belief" or "satisfaction". The police officer is an investigator and not an adjudicator or a decision maker. This is the reason why the Ordinance was enacted to deal with attachment of money and immovable properties in cases of scheduled offences.

10. The Rajasthan High Court in **Dharmendra Chawra Harish Bhai** (supra) has categorically enumerated the steps to be followed in case of a cyber crime and wherein the Investigating Officer requires lien to be put on account of persons in various locations, including locations outside the state wherein the investigation is going on and held as follows:

"50. Considering the aforesaid, it is appropriate to direct as under:-

i) after receipt of any information about cyber crime either through a victim or through NCRP including 1930, the same shall be analyzed and investigated as early as possible by a designated and trained police officer, not below the rank of ASI or Sub-Inspector, subject to availability in police station.

(ii) *The DGP shall ensure that all such personnel who are involved in the process of investigating a matter relating to cyber crime are well trained within six months so that an innocent person may not be prosecuted in an ordinary and casual manner.*

(iii) *As soon as information about the commission of a crime or suspicion of a crime is received and an FIR is registered, then before procuring any information from any bank or payment system operator (PSO or payment aggregator), a copy same shall be forwarded to the Superintendent of Police and his approval be obtained expressly or orally. An entry to this effect be recorded in Daily Diary of police station as well in the case diary.*

(iv) *As soon as any information is received about the transfer of money or transaction of crime proceed(s) in any bank account or by using any digital payment instrument, including UPI or a wallet, then information shall be sent immediately to the noul officer of said bank of the beneficiary or payment service system, including the payment aggregator, so as to take action at their end. The information should accompany a copy of the FIR or information received by the police. The bank or the payment system operator (PSO) may decline a request, if it is received without a copy of any complaint or FIR.*

(v) *In no case, bank account operated by any financial entity, such as a Payment System operator (PSO), payment aggregator, or a merchant, be blocked or put on hold by any of the bank on the request of any police official for a suspicious transaction of any third party. This instruction shall not be applicable in cases of CBI or ED, including under the PMLA or under the PC Act.*

(vi) *All banks and payment system operators, including payment aggregators and financial service providers, are stakeholders as per Guideline No. 7 prepared by the Indian Cybercrime Coordination Centre and are participants of CFCFRMS, Therefore, they shall appoint one nodal officer with whom the police may establish contact as and when any emergent situation arises. The duties of such officer shall be assigned in a manner that one of the officer is available to contact round the clock. The institution may also use its customer care support for this purpose.*

(vii) *The police shall not request to any bank to block or put on hold any amount in bank account or escrow account maintained and operated by any payment System Operator (PSOs) including payment aggregator and payment wallet operator, or a merchant. If any bank puts on hold any bank account or escrow account maintained by any such entity on the*

request of the police, then the bank shall be personally liable for the Civil and Criminal consequences for the loss including financial and damage to the reputation of such PSO or merchant.

(viii) As soon as any information is received about unauthorized transaction from any bank account or any digital transaction, the police may act immediately after informing the concerned Superintendent of Police and intimate the payment system operator (PSO), including payment aggregator or digital wallet service provider, to mark lien on a specific amount (money allegedly transferred from bank account of victim), but in no case the police may ask or request any bank or payment system operator (PSO) including payment aggregator, to block or suspend entire financial account of any individual, including any merchant. In case if any of the saving bank account is used frequently for transferring the crime proceed(s) or for fraudulent transactions, then the police may inform the concerned bank branch to provide details of said bank account operator including the transaction history along with location.

(ix) If any credit card or debit card is used to purchase merchandise online money is transferred to the bank account of a merchant, including financial intermediary or any bank or payment system operator (PSO) including Payment aggregator, nor any amount be marked as lien, as the amount has been used and converted to a merchandise, thus the stolen property is not the money. A misuse of credit/debit card is a disputed transaction between bank and the customer.

(x) As soon as information to block or put on hold or marking of a lien is forwarded to a bank or any financial intermediary, including a payment system operator (PSO), then the information shall simultaneously be sent to the concerned jurisdictional Judicial Magistrate within 24 hours. Failing to inform may render such action as void or actionable wrong against police. These guidelines shall not be applicable upon the blocking and marking a lien on mule accounts operated by individuals to transfer money crime proceed(s)."

11. The Kerela High Court in **Dr. Sajeer v. Reserve Bank of India** reported in (2024) 1 KLT 826 has held that if there is a suspicion of alleged crime then the amount frozen must be not be in its entirety but must be proportionate to the amount alleged to be under suspicion as an order of freezing the entire bank account of the petitioner has a serious and adverse implication and invades and encroaches upon his invaluable rights to earn and live with dignity. The relevant paragraphs of the judgment are quoted

hereinbelow:

"11. In the afore perspective, when the requisitions in these cases - by various Police Authorities in several States of India - mention the exact amount suspected to have been credited to the accounts of the petitioners herein, one fails to fathom why their bank accounts in full, should remain frozen. This is more so because, even when the sums in question may have found credit in the accounts of the petitioners, unless the investigation eventually reveals that they were complicit in the Cyber Crime, or had received the same being aware of it, they could never be construed to be accused.

13. In the conspectus of the above, I order these Writ Petitions with the following directions: a. The respondent Banks arrayed in these cases, are directed to confine the order of freeze against the accounts of the respective petitioners, only to the extent of the amounts mentioned in the order/requisition issued to them by the Police Authorities. This shall be done forthwith, so as to enable the petitioners to deal with their accounts, and transact therein, beyond that limit. b. The respondent - Police Authorities concerned are hereby directed to inform the respective Banks as to whether freezing of accounts of the petitioners in these Writ Petitions will require to be continued even in the afore manner; and if so, for what further time, within a period of eight months from the date of receipt of a copy of this judgment. c. On the Banks receiving the afore information/intimation from the Police Authorities, they will adhere with it and complete necessary action - either continuing the freeze for such period as mentioned therein; or withdrawing it, as the case may be. d. If, however, no information or intimation is received by their Banks in terms of directions (b) above, the petitioners or such among them, will be at full liberty to approach this Court again; for which purpose, all their contentions in these Writ Petitions are left open and reserved to them, to impel in future."

12. After sifting through the ratios laid down in the catena of judgments mentioned above, and upon applying our mind to the issue at hand, the following principles may be laid down for freezing a bank account under a suspicion of cyber crime:-

A. Section 106 of BNSS should not be interpreted to empower police officers to intervene in money disputes by seizing property especially based on mere suspicion but it must be bolstered by

reasonable belief.

B. Information for freezing the bank account by the investigating officer shall be sent immediately to the nodal officer of the bank of the beneficiary or payment service system, including the payment aggregator, so as to take action at their end. The police officer must furnish information with relation to the alleged crime and should accompany a copy of the FIR or information received. The bank or the payment system operator (PSO) may decline a request, if it is received without a copy of any complaint or FIR.

C. The notice under Section 106 of the BNSS may require to mark lien on a specific amount (money allegedly transferred from or to the bank account of accused), but in no case the police may ask or request any bank or payment system operator (PSO) including payment aggregator, to block or suspend entire financial account.

D. As soon as information to block or put on hold or marking of a lien is forwarded to a bank or any financial intermediary, including a payment system operator (PSO), then the information shall simultaneously be sent to the jurisdictional Judicial Magistrate within 24 hours. Failure to inform may render such an action as void.

E. If any bank puts on hold any bank account or escrow account maintained by any entity / citizen on the request of the police without following the proper procedure, then the bank shall be personally liable for the Civil and Criminal consequences for the loss including financial and reputational damage of such entity / citizen.

13. From a perusal of the above, we are of the view that in case of a cyber crime, the Investigating Officer is required to not only issue notice under Section 94/106 of the B.N.S.S., 2023 to the banks concerned but the same must contain the amount for which lien is sought. A blanket notice without indicating the amount, on which lien is being sought, would be illegal and arbitrary. Furthermore, the Investigating Officer is required to intimate the jurisdictional Magistrate of the said cyber crime and inform the banks of the case number that has been registered on basis of which said lien / freezing is

sought.

14. In several of these cases, we are finding that the debit freeze is sought on the entire account of the petitioners without providing to the bank the seizure notice that is required to be issued by the Investigating Officer. Furthermore, details of cases that have been registered before the court concerned are also not provided to the banks, who in turn cannot provide it to the persons whose accounts are being frozen / lien being created.

15. In our view, this entire action is unjustified and illegal. One may understand a situation wherein there is a requirement for freezing an account for a limited period so that the proceeds of crime are not removed. However, even in these extreme cases, it is incumbent upon the Investigating Officer to provide the bank within three to four days the seizure order passed for putting a lien on the bank account, the case number on the basis of which such lien/freezing is being conducted, as well as, provide the amount on which the lien is sought to be created.

16. In the present case, it is clear that no amount has been indicated in the notice that has been issued to the bank. Furthermore, copy of the F.I.R. has not been provided nor any seizure order has been provided to the bank, in spite of the bank having written to the Investigating Officer to provide the same.

17. In light of the same, we are unable to sustain and countenance the mechanism that has been used by the Investigating Officer wherein the entire account of the petitioner has been frozen. No information has also been provided to the bank with regard to the court wherein the particular case is pending. In light of the same, the impugned notice is quashed and set aside with a direction upon the banks concerned to immediately de-freeze the accounts of the petitioner and allow the petitioner to carry on his normal banking activities. Liberty is also granted to the petitioner to inform the bank for immediate de-freezing of the account in the course of the day today.

18. The writ petition is **disposed of** in the aforesaid terms.

January 19, 2026
Lokesh Kumar

(Manjive Shukla,J.) (Shekhar B. Saraf,J.)