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

\+ W.P.(C) 4198/2025 & CM APPL. 19454/2025

MALABAR GOLD AND DIAMOND LIMITED & ORS.

.....Petitioners

Through: Mr. Abhimanyu Bhandari, Sr. Advocate with Ms. Surabhi Khattar, Mr. Shivansh Vishwakarma and Mr. Sriharsh Raj, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. P S Singh, CGSC with Ms Minakshi Singh and Mr. Ashutosh Bharti, Advocates.
Mr. Rajiv Kapur, SC for SBI with Mr. Akshit Kapur, AOR for R-2.
Mr. Amol Sharma, Advocate for R-3.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 16.01.2026

1. The present petition assails the action of respondent No. 1 of issuing communications to respondent Nos. 2 and 3, i.e., the concerned banks, whereby the bank accounts of Petitioner No. 1 have been directed to be put on hold/frozen.

2. Petitioner Nos. 1 and 2 are engaged in the business of buying and

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selling, *inter alia*, gold ornaments, gold items, gold bars, coins, and precious stones, and have been carrying on such business in compliance with all applicable regulations.

3. In July 2024, a company by the name of Dallas E-com Infotech Private Limited (hereinafter '**the Customer**') approached the petitioners for the purchase of gold items, including gold bars and coins.

4. It is stated that prior to entering into any transactions, the petitioners undertook due diligence and complied with all applicable Know Your Customer (KYC) norms. It is also stated that the petitioners obtained and verified adequate banking and identification details of the Customer, and the transactions were carried out through regular banking channels.

5. However, it is the petitioners' case that between August 2024 and March 2025, multiple transactions were carried out with the Customer, aggregating to approximately Rs. 14,20,74,954.99/-. Subsequently, certain complaints appear to have been registered against the Customer by third parties. It is, however, stated that no complaint, FIR, or proceeding has been registered against the petitioners. According to the petitioners, despite this, and without any verification or finding regarding the petitioners' involvement or complicity, respondent No. 4 proceeded to communicate directions to respondent Nos. 2 and 3, resulting in the freezing of the petitioners' bank accounts.

6. Mr. Abhimanyu Bhandari, learned senior counsel, appearing for the petitioners, reiterates that if any investigating or enforcement agency forms an opinion that the petitioners are complicit in any offence, such agency is fully empowered to proceed strictly in accordance with law. However, the petitioners herein remain completely unaware of any case registered against

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them or of any investigation in which their complicity is even alleged. He categorically submits that no summons, notice, or intimation has ever been served upon them by any investigating or enforcement agency.

7. The Court had earlier directed for issuance of notice and called upon respondent No. 4 to file status reports.

8. The last status report placed on record by respondent No. 4 is dated 20.05.2025. Thereafter, *vide* order dated 02.12.2025, this Court directed respondent No. 4 to clarify certain specific aspects. For clarity, the operative portion of the order dated 02.12.2025 reads as under:-

> *"1. A status report has been filed on behalf of the respondent no.4. However, contrary to the directions contained in the order dated 17.11.2025, the said status report does not disclose whether there exists any direct complicity of the petitioner in the ongoing investigation/s by the local police authorities.*
> *2. The respondent no.4 is accordingly directed to liaise with the concerned local police authorities and file a status report, specifically disclosing the aforesaid aspect.*
> *3. It is further noticed that the status report, filed on behalf of the respondent no.4 makes a reference to the judgment of the Kerala High Court in **Dr. Sajeev vs. RBI & Anr.**, wherein it has been held that the freezing of bank accounts shall be confined only to the extent specified by the police authorities. The said judgment also lays down that the police authorities*
> *must inform the banks if the freezing order is required to continue beyond a period of eight months.*
> *4. In the circumstances, it is imperative that the requisite information be obtained by the respondent no.4 from the police authorities so that appropriate directions can be issued and the freezing order is confined accordingly.*
> *5. Let a fresh status report in terms of the aforesaid directions be filed within a period of four weeks from today.*
> *List on 15.01.2026".*

9. Learned counsel appearing for the concerned respondent stated that no further supporting material or updated status report has been filed. It is stated that no additional information is forthcoming, and consequently, the

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inadequacy of this link noted in the earlier order remained unexplained. Learned counsel has rightly submitted that there is no purpose in filing a fresh status report.

10. In order 02.12.2025, the Court considered the last status report and noted, *inter alia*, that pursuant to an analysis of certain complaints, a sum of Rs. 1,36,53,559/- deposited in the petitioners' accounts has been marked as a disputed amount, i.e., alleged proceeds of crime, by the concerned bank officials, solely in compliance with instructions issued by law enforcement agencies of various States/UTs.

11. Merely because certain offences may have been committed by the Customer, cannot, by itself, constitute a lawful basis for a unilateral freezing or withholding of the petitioners' bank accounts. The petitioners are, at the very least, entitled to be informed of the reasons for freezing their bank accounts, which they are otherwise legally entitled to operate.

12. In this context, the provisions of Sections 106 and 107 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) assume relevance. The same are extracted as under: -

> "***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*

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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, 46 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*

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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. While interpreting the scheme of aforenoted sections of the BNSS, High Court of Kerala at Ernakulam, in ***Headstar Global Pvt. Ltd. V. State of Kerela***[1], 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 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

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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***[2], 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

[2] 2025 SCC OnLine Bom 4778

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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 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

[3] 2025 SCC OnLine Del 1055

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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.

20. Turning to the facts of the instant case, it is noted that on 27.02.2025,

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a cyber complaint was lodged by one *Syed Irfan* at Kanpur alleging fraud and cheating by the Customer. Subsequently, on 28.02.2025 and 18.03.2025, petitioner No. 1 was informed by respondent No. 2 and respondent No. 3 that certain amounts of ₹11,60,000/- and ₹7,50,000/-, respectively, had been put on hold pursuant to intimation received from the National Cyber Crime Department in connection with the said complaint, alleging loss of money on account of fraud committed by the Customer.

21. Furthermore, it is stated that on 25.03.2025, SBI Commercial Branch, Ernakulam, *vide* letter bearing No. *CCG/CBEKM/MGDL/2024-25*, informed petitioner No. 1 that amounts of ₹14,61,857/- and ₹36,50,000/-, with respondent No. 2, had been put on hold pursuant to instructions received from police authorities/investigating agencies. Thereafter, it is stated that *vide* another communication dated 28.03.2025, the said branch informed petitioner No. 1 that a total amount of ₹22,00,857/- had been put on hold between 18.03.2025 and 26.03.2025 in one account, and an amount of ₹50,60,000/- had been put on hold between 17.03.2025 and 27.03.2025 in another account maintained with respondent No. 2.

22. Thus, as stated by petitioners, on 28.03.2025, an aggregate amount of ₹80,10,857/- standing to the credit of petitioner No. 1 in accounts maintained with respondent Nos. 2 and 3 has been put on hold pursuant to instructions issued by police departments/investigating agencies.

23. Furthermore, as per respondents' own stand, as on date, there is no complaint against the petitioners. The respondents have also not been able to demonstrate any complicity of the petitioners. In the absence of any complicity of the petitioners, the continued freezing and withholding of various amounts have caused prejudice to the petitioners and have disabled

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the petitioner No. 1 from using its funds for paying requisite salaries of employees and meeting their other day-to-day expenses to ensure the smooth running of their business.

24. In these circumstances, this Court finds no justification for the petitioners to continue to suffer on account of an indefinite and unreasoned freezing of their bank accounts. If any investigating or enforcement agency is in possession of material suggesting the petitioners' complicity, such agency is at liberty to take appropriate action strictly in accordance with law.

25. At this stage, learned counsel for respondent no.2 submits that a Standard Operating Procedure (*hereinafter* **'the SOP'**) has been framed by the Ministry of Home Affairs to deal with instances of freezing in cases of cyber fraud/crime. The same is stated to have been duly notified on 02.01.2026.

26. However, the actions taken in the instant case predate the issuance of the SOP. In any event, even assuming that the SOP empowers a concerned authority to act in a particular manner, it is always open to such authority to take appropriate action.

27. Accordingly, the present petition is disposed of with the following directions:

(i) Respondent No. 4 shall forthwith issue appropriate directions to Respondent Nos. 2 and 3 to defreeze the petitioners' bank accounts.

(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

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petitioners' complicity, Respondent No. 4 shall be at liberty to issue fresh directions, in accordance with law.

PURUSHAINDRA KUMAR KAURAV, J

JANUARY 16, 2026
sh/mj

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