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Reserved on : 24.06.2026
Pronounced on : 10.08.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.5929 OF 2026

C/W

CRIMINAL PETITION No.5930 OF 2026

CRIMINAL PETITION No.5935 OF 2026

IN CRIMINAL PETITION No.5929 OF 2026

BETWEEN:

STATE OF KARNATAKA
BY KORAMANGALA POLICE STATION
BENGALURU.
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU – 560 001.

... PETITIONER

(BY SRI B.N.JAGADEESHA, SPP-I)

AND:

JAR GOLD RETAIL PRIVATE LIMITED
NO. 725, 18TH MAIN ROAD,
6TH BLOCK, KORAMANGALA,

BENGALURU – 560 095.

... RESPONDENT

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE FOR
SRI P.CHINNAPPA, ADVOCATE;
SRI ANGAD KAMATH, *AMICUS CURIAE* VIDE
ORDER DATED 11.06.2026)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF B.N.S.S., READ WITH SECTION 482 OF CR.P.C., PRAYING TO SET ASIDE THE ORDER DATED 04.04.2026 PASSED BY PRL.CITY CIVIL AND SESSIONS JUDGE BENGALURU IN I.A.NO.II OF 2026 IN CR.NO.25/2026.

IN CRIMINAL PETITION No.5930 OF 2026

BETWEEN:

STATE OF KARNATAKA
BY KORAMANGALA POLICE STATION
BENGALURU.
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU – 560 001.

... PETITIONER

(BY SRI B.N.JAGADEESHA, SPP-I)

AND:

JAR GOLD RETAIL PRIVATE LIMITED
NO.725, 18^{TH} MAIN ROAD,
6^{TH} BLOCK, KORAMANGALA,
BENGALURU – 560 095.

... RESPONDENT

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE FOR

SRI P.CHINNAPPA, ADVOCATE;
SRI ANGAD KAMATH, *AMICUS CURIAE* VIDE
ORDER DATED 11.06.2026)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF B.N.S.S., PRAYING TO SET ASIDE THE ORDER DATED 04.04.2026 PASSED BY THE PRL.CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN I.A NO.III IN CR. NO.25/2026.

IN CRIMINAL PETITION No.5935 OF 2026

BETWEEN:

STATE OF KARNATAKA
BY KORAMANGALA POLICE STATION
BENGALURU.
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU – 560 001.

... PETITIONER

(BY SRI B.N.JAGADEESHA, SPP-I)

AND:

JAR GOLD RETAIL PRIVATE LIMITED
NO.725, 18^{TH} MAIN ROAD,
6^{TH} BLOCK, KORAMANGALA,
BENGALURU – 560 095.

... RESPONDENT

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE FOR
SRI P.CHINNAPPA, ADVOCATE;
SRI ANGAD KAMATH, *AMICUS CURIAE* VIDE
ORDER DATED 11.06.2026)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF B.N.S.S., PRAYING TO SET ASIDE THE ORDER DATED 04.04.2026

PASSED BY THE PRL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN I.A NO.I IN CR.NO.25/2026.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.06.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

Batch of these petitions filed by the State call in question separate orders passed by the Principal City Civil and Sessions Judge, Bengaluru on I.A.Nos.I, II and III of 2026 in Crime No.25 of 2026. Therefore, they are taken up together and considered by this common order.

2. Facts in brief, germane, are as follows:

The respondent/JAR Gold Retail Private Limited ('Company' for short), a Company registered under the provisions of the Companies Act, 2013 is an e-commerce seller of gold. A crime is registered against the said Company in Crime No.25 of 2026, which comes to be challenged before this Court in Writ Petition No.5968 of 2026. This Court rejected the said petition in terms of its order dated 04-03-2026. Challenge to the said order was made before the Apex Court and the Apex Court declined to entertain Special Leave Petition against the order passed by this Court. Thus, insofar as this Court is concerned, that order became final. The issue in the *lis* is not with regard to the said proceeding. Subsequent to dismissal of the writ petition, applications come to be filed by the Company before the Court of Sessions under Sections 497 and 503 of the Bharatiya Nagarika Suraksha Sanhita, 2023 ('BNSS') seeking release of various gold and silver articles, which were seized at the time of search conducted by the State. After hearing the petitioner/State and the respondent/accused, the concerned Court allows applications directing release of gold that was seized by the Police, among other articles. The State, claiming to be aggrieved, is before this Court calling in question those orders. At the time of hearing of the petitions on 16-04-2026, this Court passed the following order:

> "Petitioner-the State is before the Court calling in question an order of the Concerned Court dated 04.04.2026.
>
> The issue arises out of a crime registered against the accused for offences punishable under the Banning of Unregulated Deposit Schemes Act, 2019. This was challenged before this Court and the challenge is repelled by an order dated 04.03.2026.

After the dismissal of the petition, the respondent appears to have filed an application before the concerned Court on 18.03.2026 Seeking release of gold, defreezing of the account and opening of the premises that stood closed pursuant to the registration of the crime.

The concerned court observing that there is lot of confusion about the registration of the crime, has given away everything by the order.

There was no confusion about the registration of the crime as this Court had already rejected the petition challenging the crime. Therefore, the concerned Court has overstepped its jurisdiction in observing that there is still confusion in the crime, notwithstanding the order passed by this Court dismissing the Petition. The Court not stopping at that, the Court appears to have now issued a show cause notice to the prosecution, as to why the order dated 04.04.2026 is not complied with. This is adding salt to injury.

Therefore the Show cause notice so issued shall remain stayed till the next date of hearing.

If no item is released in terms of the order, nothing shall be released till the next date.

Learned counsel for the respondent submits that for the purpose of payment of salary of 200 employees who work in Jar Gold Retail Private Limited, the accounts need to be in operation. Therefore for the purpose of payment of salary on the requisition submitted by the respondent as to the amount of salary, the account shall be defrozen only to that extent.

List this matter on **21.04.2026**."

On 27-04-2026, this Court passed the following order:

"Heard Sri P.Prasanna Kumar, learned counsel for respondent.

"This Court on 16-04-2026 had passed the following order:

"Petitioner-the State is before the Court calling in question an order of the Concerned Court dated 04.04.2026.

The issue arises out of a crime registered against the accused for offences punishable under the Banning of Unregulated Deposit Schemes Act, 2019. This was challenged before this Court and the challenge is repelled by an order dated 04.03.2026.

After the dismissal of the petition, the respondent appears to have filed an application before the concerned Court on 18.03.2026 Seeking release of gold, defreezing of the account and opening of the premises that stood closed pursuant to the registration of the crime.

The concerned court observing that there is lot of confusion about the registration of the crime, has given away everything by the order.

There was no confusion about the registration of the crime as this Court had already rejected the petition challenging the crime. Therefore, the concerned Court has overstepped its jurisdiction in observing that there is still confusion in the crime, notwithstanding the order passed by this Court dismissing the Petition. The Court not stopping at that, the Court appears to have now issued a show cause notice to the prosecution, as to why the order dated 04.04.2026 is not complied with. This is adding salt to injury.

Therefore the Show cause notice so issued shall remain stayed till the next date of hearing.

If no item is released in terms of the order, nothing shall be released till the next date.

Learned counsel for the respondent submits that for the purpose of payment of salary of 200 employees who work in Jar Gold Retail Private Limited, the accounts need to be in operation. Therefore for the purpose of payment of salary on the requisition submitted by the respondent as to the amount of salary, the account shall be defrozen only to that extent.

List this matter on **21.04.2026**."

> **Sri P. Prasanna Kumar, learned counsel submits that a detailed list of necessities would be placed before the petitioner - Investigating Officer with regard to the salaries, GST or any other statutory payment to be made.**
>
> In the event, the respondent would file necessary application before the Investigating Officer, the account shall be defrozen to that effect.
>
> This is in amplification of the order dated 16.04.2026.
>
> List the matter on **08.06.2026**."

This Court, by the afore-quoted orders, permitted the use of bank accounts for the purpose of remittance of GST and other statutory payments and salaries.

3. Heard, in all these petitions, Sri B.N. Jagadeesha, learned State Public Prosecutor-I appearing for the petitioner; Sri Sandesh J. Chouta, learned senior counsel appearing for the respondent and Sri Angad Kamath, learned counsel appearing as *Amicus Curiae.*

4. The learned State Public Prosecutor-I would submit that the orders passed by the concerned Court run contrary to law. They are passed as if they have some obfuscation with the order passed by this Court, which stands affirmed by the Apex Court. He would submit that the orders travel from the contours of Sections 497 and 503 of the BNSS. He would seek the orders to be set aside and the

concerned Court be directed to consider the applications afresh after hearing the parties to the *lis*.

5.1. The learned senior counsel Sri Sandesh J. Chouta appearing for the respondent would vehemently refute the submissions in contending that the very act of freezing of Bank accounts of the respondent runs contrary to Section 107 of the BNSS. He would submit that Section 107 of the BNSS is a newly introduced provision which was not there in the earlier regime, the Cr.P.C. It mandates that if any freezing of the Bank account is to be made, permission of the learned Magistrate should be taken and then an order of freezing should be passed. It is the case of the respondent that the learned Magistrate was informed after the freezing of the account, as if it would come within the ambit of Section 106 of the BNSS and not under Section 107. Section 106 of the BNSS is the same as Section 102 of the Cr.P.C. Under sub-section (3) of Section 102 of the Cr.P.C., what was mandated was information to be furnished to the learned Magistrate of any freezing of the account or seizure of the property. He would submit that in the light of violation of Section 107 of the BNSS in the case at hand, the order should be confirmed *albeit*, for different reasons.

5.2. The learned senior counsel would submit that several points arise for consideration in the case at hand on interpretation of Sections 106 and 107 of BNSS. It is his submission that there is a distinction between seizure and attachment in criminal jurisprudence. The ambit of Section 106 of BNSS is limited to information to the learned Magistrate. But, freezing of the account is akin to attachment of the property. Therefore, it comes directly under Section 107 of BNSS. He would seek to place reliance upon ten judgments rendered by different High Courts and one of the coordinate Bench of this Court, which interpret freezing of Bank accounts coming under Section 107 of the BNSS and non-compliance with the mandate of Section 107, which would lead to the entire act of freezing being vitiated.

6. Owing to the conundrum, this Court appointed Sri Angad Kamath as *Amicus Curiae* to assist the Court. The learned counsel Sri Angad Kamath has taken this Court through the genesis of the

provisions and also the judgments rendered by other Courts, as well as coordinate Benches of this Court. It is his submission that Sections 106 and 107 of the BNSS operate in different fields. The powers do not overlap. They are distinct and separate. If the submission of the learned senior counsel is accepted that every debit freezing would come under Section 107 of the BNSS, it would be rendering the provision – Section 106 of the BNSS a surplusage. He would submit that all the High Courts which interpret Section 107 of the BNSS do not even notice Section 106 of the BNSS and interpret Section 107, including the order of the coordinate Bench of this Court. Therefore, the learned counsel submits that Section 107 of BNSS would come into operation only if there is an attachment of the property. An attachment is always a judicial proceeding and debit freezing cannot be a judicial proceeding. What is necessary is to inform the concerned Court, as is obtaining under Section 106 of the BNSS.

7. The learned State Public Prosecutor-I appearing for the State would also refute the submissions by taking this Court through the genesis of Section 102 of the Cr.P.C., which is now

Section 106 of the BNSS, all of which will spring from Criminal Law Amendment Act, 1946. The learned State Public Prosecutor-I would also seek allowing the petitions and quashment of orders passed by the concerned Court. He would submit that if the submission of the learned senior counsel appearing for the respondent is accepted it would be rendering Section 106 of the BNSS redundant. He would also toe the lines of *Amicus Curiae* in contending that none of the High Courts or the coordinate Bench have considered the interplay between Section 106 and Section 107 of the BNSS.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts lie in a narrow compass and would not require any reiteration.

GENESIS:

A complaint comes to be registered *suo-motu* by the State against the Company/JAR Gold Retail Private Limited. Two of its

Directors approached this Court in Writ Petition No.5968 of 2026. This Court in terms of its order dated 04-03-2026 rejected the petition on the following reasons:

"…. …. ….

CONSIDERATION:

7. The afore-narrated facts are a matter of record. Digital gold or business of sale of gold online is a concept that emerged in the year 2013 when Metals and Minerals Trading Corporation of India, a Government of India Company launched a business for sale of gold/digital gold to customers online. On 17-10-2013 the Securities and Exchange Board of India ('SEBI') clarified that the proposed business appears to be only transaction of sale and purchase of gold and does not qualify as a collective investment scheme. Long thereafter, genesis of the Company happens. In 2021 the Company launches a mobile application and a website in the name and style of 'JAR' which enables customers to purchase, seek delivery and sell back gold at their discretion. The purchase of gold happens to an amount beginning from ₹10/- and goes on unlimited. The business of these petitioners which began in 2021 has now flourished into a dramatical figure of ₹4,000/- crores. When the business was flourishing for 5 years, an electronic mail is communicated by the Reserve Bank of India. The mail dated 13-10-2025 reads as follows:

"Madam/Dear Sir,
Please refer to the trailing mail and attachments on the captioned subject.

2. In this connection, complainant has raised a number of issues against the Jar app mentioning that it is structurally opaque, legally unguaranteed, behaviorally manipulative and built on a culturally sensitive commodity (Gold).

3. In connection to the above, MI, DoS, Bengaluru has carried an MI visit at Jar Digital Gold at the available address (as enclosed) and was observed that

investments (Rs. 10 to 1 lakh) are accepted for digital gold at the day's rate. However, Instead of physical gold, the gold is said to be kept in an account maintained with Jar, digital form in an account maintained by Jar, which does not comes under RBIs regulation.

4. In addition to that, Investors also get 30-40% referral bonuses, can stop investing anytime and withdraw funds at the prevailing gold rate. It was also noted that Jar Gold Retail Private Limited and Jarfin Retail Private Limited are also functioning at the same building.

6. Since these companies are not regulated by RBI but are registered under RoC Bengaluru, the same was forwarded to RoC, Bengaluru for necessary action.

7. However, during the meeting with Chief Secretary, it was advised that this Information to be sent to Police Department CID. Therefore, the MI visit inputs are forwarded to CID and AIGP, Crime for information and necessary action, if any, as these companies are located in Bengaluru as advised by Chief Secretary as the same would be taken up during the upcoming SLCC meeting.

साभार Regards,

बाजार आसूचना यूनिट / Market Intelligence Unit
पर्यवेक्षण विभाग / Department of Supervision
भा.रि.बै., बेंगलूरु / Reserve Bank of India, Bengaluru
फोन / Ph: 080-22180364/383/379”

The electronic mail to all the accused clearly indicated that a complaint is received, it has several issues against JAR app mentioning that it is structurally opaque, legally unguaranteed and behaviorally manipulative and built on a culturally sensitive commodity (gold). The investors get 30 to 40% referral bonuses and can stop investing anytime. Such companies are not regulated by the RBI, but are registered under the Registration of Companies. It is advised that information be sent to CID of the States and all the investigating officers. This mail communication is particularly to the State of Karnataka. The

SEBI issues a public notice on 08-11-2025. The public notice reads as follows:

"Caution to public regarding dealing in 'Digital Gold'

SEBI has enabled investments in gold and gold related instruments through various SEBI regulated gold products. These are exchange traded commodity derivative contracts, Gold Exchange Traded Funds (ETFs) offered by Mutual Funds and Electronic Gold Receipts (EGRs) tradeable on stock exchanges. Investments in these SEBI regulated gold products can be made through SEBI registered intermediaries and are governed by the regulatory framework prescribed by SEBI.

It has come to the notice of SEBI that some digital/online platforms are offering investors to invest in 'Digital Gold/E-Gold Products'. Digital Gold is being marketed as an alternative for investment in physical gold.

In this context, it is informed that such digital gold products are different from SEBI regulated gold products as they are neither notified as securities nor regulated as commodity derivatives. They operate entirely outside the purview of SEBI. Such digital gold products may entail significant risks for investors and may expose investors to counterparty and operational risks.

Investors/participants are made aware that none of the investor protection mechanisms under securities market purview shall be available for investments in such Digital Gold/ E-Gold products.

Mumbai
November 08, 2025"

The SEBI warns citizens to be careful in investing in digital gold of any Company. After these communications, a memorandum is issued by the Joint Commissioner of Police (Crime), Bangalore City. It reads as follows:

"ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಪೊಲೀಸ್ ಇಲಾಖೆ

ಸಂಖ್ಯೆ: 54/ಅಪರಾಧ-4/ಸಿ ಓ ಪಿ/2025 ಪೊಲೀಸ್ ಆಯುಕ್ತರ ಕಛೇರಿ,

ಬೆಂಗಳೂರು ನಗರ

ದಿ: 10-11-2025

ಜ್ಞಾಪನ

ವಿಷಯ:- JAR Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಕುರಿತು.

ಉಲ್ಲೇಖ:-ಪ್ರಧಾನ ಕಛೇರಿ ಪತ್ರ ಸಂ: ಅಪರಾಧ-12/45/2025. ದಿ: 21.10.2025.

*** *** ***

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಉಲ್ಲೇಖಿತ ಪ್ರಧಾನ ಕಛೇರಿಯ ಪತ್ರದಲ್ಲಿ MI Unit ರವರ ಇ-ಮೇಲ್ ನಲ್ಲಿ "Jar digital Gold" ಸಂಸ್ಥೆಯು ತನ್ನ ವೇದಿಕೆಯ ಮೂಲಕ ಡಿಜಿಟಲ್ ಗೋಲ್ಡ್ ಹೂಡಿಕೆಗಳನ್ನು ಸ್ವೀಕರಿಸುತ್ತಿದ್ದು, ಆ ಹೂಡಿಕೆಗಳನ್ನು ನೇರವಾಗಿ ಚಿನ್ನದ ರೂಪದಲ್ಲಿ ನೀಡದೆ ಡಿಜಿಟಲ್ ಖಾತೆಯಲ್ಲಿ ಉಳಿಸಿಕೊಂಡಿರುವುದು ಗಮನಕ್ಕೆ ಬಂದಿದೆ, ಇದೇ ರೀತಿಯಾಗಿ ಹೂಡಿಕೆದಾರರಿಗೆ 30% ರಿಂದ 40 % ವರೆಗೆ ರೆಫರಲ್ ಭೋನಸ್ ನೀಡಲಾಗುತ್ತಿದೆ ಎಂದು ವರದಿಯಾಗಿದೆ. ಈ Jar Gold Retail Private Limited ಹಾಗೂ Jarfin Retail Private Limited ಕಂಪನಿಗಳು ಆರ್ ಬಿ ಐ ನಿಯಂತ್ರಣಕ್ಕೆ ಒಳಪಡುವುದಿಲ್ಲದೆ ಕಂಪನಿಗಳ ನೋಂದಣಿ ನಿಯಂತ್ರಕ (RoC), ಬೆಂಗಳೂರಿನಲ್ಲಿ ನೋಂದಾಯಿತವಾಗಿವೆ ಎಂದು ವರದಿಯಾಗಿದೆ, ಈ ವಿಷಯದಲ್ಲಿ ಸಾರ್ವಜನಿಕ ಹಿತಾಸಕ್ತಿ ಹಾಗೂ ಹಣಕಾಸು ನಿಯಮ ಉಲ್ಲಂಘನೆಗಳ ಸಾಧ್ಯತೆ ಇರುವುದರಿಂದ ಅಗತ್ಯ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಸೂಚಿಸಿರುತ್ತಾರೆ.

ಆದ್ದರಿಂದ, ಪ್ರಧಾನ ಕಛೇರಿಯ ಪತ್ರದಲ್ಲಿ ಪ್ರಸ್ತಾಪಿಸಿರುವ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ನಿಯಮಾನುಸಾರ ಪರಿಶೀಲಿಸಿ, ಅಗತ್ಯ ಕೈಗೊಳ್ಳುವಂತೆ ಸೂಚಿಸಿ, ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ಕಳುಹಿಸಿಕೊಡಲಾಗಿದೆ.

Digitally signed by
AJAY HILORI
Date: 10-11-2025
11:10:11
ಜಂಟಿ ಪೊಲೀಸ್ ಆಯುಕ್ತರು,
(ಅಪರಾಧಗಳು), ಬೆಂಗಳೂರು
ನಗರ"

This is replied to by the petitioners. The reply is not necessary to be extracted, as the memorandum of writ petition is verbatim similar to what is replied to.

8. There are several complaints against this app by the customers or several citizens. I deem it appropriate to notice one such observation. It reads as follows:

> **"This app has absolutely no credibility, you keep getting prompts that you've saved enough money to buy a gold coin, but every time just before placing order for gold coin, you get a message that gold coin is not deliverable. Also you can't withdraw the amount you've saved, it only allows to withdrawal almost half of the amount. I mean, what even is the point of this application, why wouldn't anyone just use a savings account? Lost case.**
>
> 10,968 people found this review helpful
>
> Did you find this helpful? Yes No
>
> Jar App - Savings & Investments 6 November 2023
>
> Hi Kanishka, We are sorry for the inconvenience. Kindly share your registered mobile number and issue details at voc@changejar.in or WhatsApp us: wa.me/916366693874, You can also reach us at our customer care number 888-439-0000(Mon to Friday 10 AM-6 PM), We will be happy to assist you.

Thank you”

(Emphasis added at each instance)

There are several other observations by several customers about purported fraud in the app. With all the communications, the Police ostensibly cannot keep quiet, as every citizen is involved in this and it has a potential of growing up into a huge problem. Therefore, *suo motu* complaint is registered by the Koramangala Police station. Since the entire issue trigged from the complaint, it is necessary to notice the entire complaint in its entirety. It reads as follows:

THE COMPLAINT:

“ರವರಿಗೆ,
ಠಾಣಾಧಿಕಾರಿಗಳು,
ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆ,
ಬೆಂಗಳೂರು ನಗರ.

ಇಂದ,
ಶ್ರೀಕಂಠೇಗೌಡ.ಬಿ. ಪಿ.ಎಸ್.ಐ,
ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆ,
ಬೆಂಗಳೂರು ನಗರ.

ಮಾನ್ಯರೇ,

ವಿಷಯ:- JAR GOLD RETAIL PRIVATE LIMITED ಕಂಪನಿ ಹಾಗೂ ಸಹ ಕಂಪನಿಗಳು ಮತ್ತು ಅದರ ನಿರ್ದೇಶಕರುಗಳು THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT, 2019 ಅಡಿ ಸಂಬಂಧಿಸಿದ ರೆಗುಲೇಟರ್ ಅಡಿ ನೊಂದಾಯಿಸಿಕೊಳ್ಳದೆ ಅನಿಯಂತ್ರಿತ ಯೋಜನೆ ರೀತಿಯಲ್ಲಿ ಮೊಬೈಲ್ ಅಪ್ಲಿಕೇಷನ್ ಮೂಲಕ ಚಿನ್ನದ ಖರೀದಿ ಮತ್ತು ಹೂಡಿಕೆ

ಮಾಡಿಸಿ ಸಾರ್ವಜನಿಕರಿಂದ ಠೇವಣಿಯನ್ನು ಅಕ್ರಮವಾಗಿ ಸ್ವೀಕರಿಸಿದ ಕುರಿತಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಸರ್ಕಾರದ ಪರವಾಗಿ ದೂರು.

** *** **

ನಾನು ಶ್ರೀಕಂಠೇಗೌಡ, ಪಿಎಸ್ಐ, 2023 ರಿಂದ ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುತ್ತೇನೆ. ನನ್ನ ಪೊಲೀಸ್ ಠಾಣೆಯ ಠಾಣಾಧಿಕಾರಿಗಳಿಗೆ ಮಾನ್ಯ ಪೊಲೀಸ್ ಆಯುಕ್ತರ ಕಛೇರಿ ಜ್ಞಾಪನ ಸಂ.54/ಅಪರಾಧ-4/ಸಿಓಪಿ/2025, ದಿನಾಂಕ: 10.11.2025, ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೇಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರ ಜ್ಞಾಪನ ಸಂ.ಸಿಆರ್ ಎಂ/591/ಡಿಸಿಪಿ(ಆವಿ)/2025, ದಿನಾಂಕ 20.11.2025, ಪ್ರಧಾನ ಕಚೇರಿ ಪತ್ರ ಸಂ. ಅಪರಾಧ-12/45/2025, ದಿನಾಂಕ 21.10.2025 ಜೊತೆಗೆ ರಿಸರ್ವ್ ಬ್ಯಾಂಕ್ ಆಫ್ ಇಂಡಿಯಾ ರವರ ಮಾರುಕಟ್ಟೆ ವಿಚಕ್ಷಣಾ ದಳ ಇ-ಮೇಲ್ ವರದಿ ದಿನಾಂಕ 20.07.2025 ಸ್ವೀಕರಿಸಿ ನನಗೆ ನನ್ನ ಮೇಲಾಧಿಕಾರಿಯು ಸದರಿ JAR GOLD RETAIL PRIVATE LIMITED ಕಂಪನಿ ನಡೆಸುತ್ತಿರುವ ಬಂಗಾರದ ಖರೀದಿ ಮತ್ತು ಹೂಡಿಕೆಗಳ ಬಗ್ಗೆ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆ ಮಾಡಿ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ನೀಡಿದ ಸೂಚನೆಯ ಮೇರೆಗೆ, ನಾನು ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆಯನ್ನು ಕೈಗೊಂಡಿರುತ್ತೇನೆ.

ಸದರಿ ರಿಸರ್ವ್ ಬ್ಯಾಂಕ್ ಆಫ್ ಇಂಡಿಯಾ ರವರ ಮಾರುಕಟ್ಟೆ ವಿಚಕ್ಷಣಾ ದಳದವರು ಸದರಿ ಕಂಪನಿಯು ನಡೆಸುತ್ತಿರುವ ವ್ಯವಹಾರದ ಕಾನೂನಿನ ಮಾನ್ಯತೆ ಬಗ್ಗೆ ಸಂಶಯ ವ್ಯಕ್ತಪಡಿಸಿ ಸದರಿ ಸಂಸ್ಥೆಯವರು ತಮ್ಮ ವೇದಿಕೆಯ ಮೂಲಕ ಸಾರ್ವಜನಿಕರಿಂದ ಡಿಜಿಟಲ್ ಗೋಲ್ಡ್ ಹೂಡಿಕೆಗಳನ್ನು ಸ್ವೀಕರಿಸುತ್ತಿದ್ದು, ಸದರಿ ವ್ಯವಹಾರವು ಅನಿಯಂತ್ರಿತವಾಗಿದ್ದು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ತಮ್ಮ ಇ-ಮೇಲ್ ವರದಿ ದಿನಾಂಕ 20.07.2025 ಅನ್ನು ಆಧರಿಸಿ ಕೈಗೊಂಡ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆಯಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಸಂಗತಿಗಳು ಕಂಡುಬಂದಿರುತ್ತವೆ.

1. JAR GOLD RETAIL PRIVATE LIMITED ಕಂಪನಿ ಇದು ಕಂಪನಿ ಕಾನೂನಿನಲ್ಲಿ ಒಂದು ನೊಂದಾಯಿತ ಕಂಪನಿಯಾಗಿದ್ದು, ಸದರಿ ಕಛೇರಿಯ ನೊಂದಾಯಿತ ವಿಳಾಸವು ನಂ. 752, 18ನೇ ಮೈನ್, 5ನೇ ಕ್ರಾಸ್, ಕೋರಮಂಗಲ 6ನೇ ಬ್ಲಾಕ್, ಬೆಂಗಳೂರಿನಲ್ಲಿ ಇರುತ್ತದೆ. ಸದರಿ ಕಂಪನಿಗೆ 1)

Misbah Ashraf, 2) Sandesh Nahar, 3) Nishchay Babu Arkalgud ರವರುಗಳು ನಿರ್ದೇಶಕರುಗಳಾಗಿರುತ್ತಾರೆ.

2. ಸದರಿ ಕಂಪನಿಯು ಮತ್ತು ಅದರ ನಿರ್ದೇಶಕರುಗಳು ಡಿಜಿಟಲ್ ಅಪ್ಲಿಕೇಷನ್ ಮೂಲಕ ಸಾರ್ವಜನಿಕರಿಗೆ ಚಿನ್ನದಲ್ಲಿ ಹೂಡಿಕೆ ಮಾಡುವ ಕುರಿತಂತೆ ಅವಕಾಶ ಮಾಡಿಕೊಡುತ್ತಿದ್ದು, ಆದರೆ ಈ ವ್ಯವಹಾರಗಳ ಕುರಿತಂತೆ Securities and Exchange Board of India (SEBI) ದಿಂದ ಅಥವಾ ಸಂಬಂಧಿಸಿದ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರದಿಂದ ಅನುಮತಿ ಪಡೆಯದೇ ಅಥವಾ ನೊಂದಾಯಿಸಿಕೊಳ್ಳದೇ ಅನಿಯಂತ್ರಿತ ರೀತಿಯಲ್ಲಿ ತನ್ನ ವ್ಯವಹಾರಗಳನ್ನು ಮಾಡುತ್ತಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

3. ಸದರಿ ಸಂಸ್ಥೆಯು ಮತ್ತು ಅದರ ನಿರ್ದೇಶಕರುಗಳು ಸಾರ್ವಜನಿಕರುಗಳಿಂದ ಹತ್ತು ರೂಪಾಯಿಗಳಿಂದ ಒಂದು ಲಕ್ಷ ರೂಪಾಯಿಗಳವರೆಗೆ ಹೂಡಿಕೆಗಳನ್ನು ಡಿಜಿಟಲ್ ಗೋಲ್ಡ್ ಹೆಸರಿನಲ್ಲಿ ಸ್ವೀಕರಿಸುತ್ತಿದ್ದು, ಅಸಲಿ ಚಿನ್ನದ ಬದಲಿಗೆ ಡಿಜಿಟಲ್ ರೂಪದಲ್ಲಿ ಚಿನ್ನವು ಸಂಬಂಧಿಸಿದ ಗ್ರಾಹಕರ ಇ-ಖಾತೆಗಳಲ್ಲಿ ಇದೆ ಎಂದು ತೋರಿಸಿ ಅವರಿಗೆ ಬೇಕಾದಾಗ ಅದನ್ನು ಹಿಂಪಡೆಯಲು ಅವಕಾಶ ಮಾಡಿಕೊಡುತ್ತೇವೆ ಎಂದು ಹೇಳುವ ಅನಿಯಂತ್ರಿತ ಯೋಜನೆಯನ್ನು ಹೊರಡಿಸಿ ಸಾರ್ವಜನಿಕಗೊಳಿಸಿರುತ್ತದೆ.

4. ಸದರಿ ಅನಿಯಂತ್ರಿತ ಯೋಜನೆಗೆ ಆಕರ್ಷಣೆಗೊಂಡ ಸಾರ್ವಜನಿಕರು ತಮ್ಮ ಇ-ಖಾತೆಗಳನ್ನು ಸದರಿ ಸಂಸ್ಥೆಯಲ್ಲಿ ತೆರೆದು ಆ ಮೂಲಕ ಹಣವನ್ನು ಹೂಡಿಕೆ ಮಾಡಿ ಡಿಜಿಟಲ್ ರೂಪದಲ್ಲಿ ಚಿನ್ನದ ಠೇವಣಿಗಳನ್ನು ಹೊಂದಿರುತ್ತಾರೆ. ಇದರ ಜೊತೆ ಸದರಿ ಕಂಪನಿಯು ತನ್ನ ಹೂಡಿಕೆದಾರರಿಗೆ ತಮ್ಮ ಜೊತೆ ಉಳಿದ ಸಾರ್ವಜನಿಕರನ್ನು ಸೆಳೆದಲ್ಲಿ ಅಂತಹ ಹೂಡಿಕೆದಾರರಿಗೆ ಶೇ. 30 ರಿಂದ 40 Referral Bonus ಕೊಡುವುದಾಗಿ ಹೇಳಿ ನಂಬಿಸಿ ಹೂಡಿಕೆಗಳನ್ನು ಮತ್ತು ಠೇವಣಿಗಳನ್ನು ಸ್ವೀಕರಿಸುತ್ತಿರುತ್ತದೆ

5. ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆಯಲ್ಲಿ ಸದರಿ ಸಂಸ್ಥೆಗೆ ಸಂಬಂಧಿಸಿದ ಪ್ರಾಧಿಕಾರದ ಅನುಮತಿಗಳನ್ನು ಮತ್ತು ವ್ಯವಹಾರದ ಸ್ವರೂಪಗಳನ್ನು ಸಲ್ಲಿಸುವಂತೆ ದಿನಾಂಕ 26.11.2025 ಹಾಗೂ 04.12.2025 ರಂದು ನೋಟೀಸ್ ನೀಡಲಾಗಿತ್ತು. ಅದಕ್ಕೆ ಪ್ರತಿಯಾಗಿ ಸದರಿ ಸಂಸ್ಥೆಯು ದಿನಾಂಕ 02.12.2025 ಹಾಗೂ 18.12.2025ರಂದು ಉತ್ತರವನ್ನು ನೀಡಿದ್ದು, ಅದರಲ್ಲಿ ಸದರಿಯವರು ಸದರಿ ಕಂಪನಿಯವರು ಸಾರ್ವಜನಿಕರುಗಳು/ ಗ್ರಾಹಕರುಗಳಿಗೆ ಮೊಬೈಲ್ ಅಪ್ಲಿಕೇಷನ್ ಮತ್ತು ವೆಬ್ ಸೈಟ್ ನಲ್ಲಿ ಚಿನ್ನವನ್ನು ಕೈಗೆಟುಕುವ, ಸುಲಭವಾಗಿ ಖರೀದಿಸಲು, ಮಾರಾಟ ಮಾಡಲು ಗ್ರಾಹಕರೊಂದಿಗೆ ಒಪ್ಪಂದ ಮಾಡಿಕೊಂಡು ಕಂಪನಿಯ ನಿಯಮ ಮತ್ತು ಷರತ್ತುಗಳ

ಅನ್ವಯ ಗ್ರಾಹಕರುಗಳಿಂದ ಚಿನ್ನದ ಮೇಲೆ ಯು.ಪಿ.ಐ ಮುಖಾಂತರ ಹಣವನ್ನು ಹೂಡಿಕೆ ಮಾಡಿಸಿಕೊಳ್ಳುತ್ತಿರುವುದಾಗಿ, ಗ್ರಾಹಕರು ಖರೀದಿ ಮಾಡುವ ಭೌತಿಕ ಚಿನ್ನದ ಅನುಗುಣವಾಗಿ ಸಮಾನ ಮೊತ್ತದ ಚಿನ್ನವನ್ನು ವಿಮೆ ಮಾಡಲಾದ ಸ್ವತಂತ್ರ ವಾಲ್ಟ್ ಗಳಲ್ಲಿ ಸಂಗ್ರಹಿಸಲಾಗುತ್ತಿರುವುದಾಗಿ, ಗ್ರಾಹಕರು ಭೌತಿಕ ಚಿನ್ನದ ಮಾಲೀಕತ್ವದ ಡಿಜಿಟಲ್ ದಾಖಲೆ ಹೊಂದಿರುತ್ತಾರೆ. ಗ್ರಾಹಕರು ತಮ್ಮ ಒಡೆತನದ ಚಿನ್ನವನ್ನು ವಿದ್ಯುನ್ಮಾನವಾಗಿ ನಗದು ರೂಪದಲ್ಲಿ ಮಾರಾಟ ಮಾಡುವ/ ಭೌತಿಕ ಚಿನ್ನದ ನಾಣ್ಯಗಳಾಗಿ/ ಚಿನ್ನದ ಭರಣಗಳನ್ನಾಗಿ ಪರಿವರ್ತಿಸುವ ಆಯ್ಕೆ ಹೊಂದಿರುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ. ಆದರೆ ಸದರಿ ವ್ಯವಹಾರವು ಸಂಬಂಧಿಸಿದ ನಿಯಂತ್ರಿಕ ಪ್ರಾಧೀಕಾರವಾದ SEBI ಅಥವಾ ಇತರೆ ಪ್ರಾಧಿಕಾರದಡಿ ನೊಂದಣಿ ಮಾಡಿಸಿಕೊಂಡಿದ್ದರ ಬಗ್ಗೆ ಯಾವುದೇ ವಿಷಯವನ್ನು ಅಥವಾ ದಾಖಲಾತಿಗಳನ್ನು ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ ಮತ್ತು ಅಂತಹ ನೊಂದಣಿ ಮತ್ತು ಅನುಮತಿ ಅಗತ್ಯವಿಲ್ಲವೆಂದು ಉಲ್ಲೇಖಿಸಿದ್ದರಿಂದ ಸದರಿ ಸಂಸ್ಥೆ ಮತ್ತು ನಿರ್ದೇಶಕರುಗಳು ತಮ್ಮ ಮೇಲ್ಕಾಣಿಸಿದ ವ್ಯವಹಾರವನ್ನು ನಿಯಂತ್ರಕ ಪ್ರಾಧಿಕಾರದಿಂದ ಅನುಮತಿಯನ್ನು ಪಡೆಯಲಾರದೇ ಮತ್ತು ನೊಂದಾಯಿಸಿಕೊಳ್ಳಲಾರದೇ ಅನಿಯಂತ್ರಿತವಾಗಿ ಸದರಿ ಯೋಜನೆಯನ್ನು ರೂಪಿಸಿ ಸಾರ್ವಜನಿಕರಿಂದ ಹಣವನ್ನು ಹೂಡಿಕೆ ಮಾಡುವುದರ ಮೂಲಕ ಠೇವಣಿ ಮಾಡಿಸಿಕೊಳ್ಳುತ್ತಿರುವುದು ಬಡ್ಸ್ ಅಧಿನಿಯಮದ ಕಲಂ 3 ಅನ್ನು ಉಲ್ಲಂಘಿಸಿ ಕಲಂ 21(1) ಮತ್ತು (2) ರಡಿಯಲ್ಲಿ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧ ಎಸಗಿದ್ದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

6. ಸದರಿ ಸಂಸ್ಥೆ ಮತ್ತು ನಿರ್ದೇಶಕರುಗಳು ನೀಡಿದ ಮಾಹಿತಿಯಂತೆ ಸುಮಾರು 3.3 ಕೋಟಿ ಜನರಷ್ಟು ತಮ್ಮ ಮೊಬೈಲ್ ಅಪ್ಲಿಕೇಷನ್ ಮೂಲಕ ಇ-ಖಾತೆಗಳನ್ನು ತೆರೆದು ವ್ಯವಹಾರ ಮಾಡುತ್ತಿದ್ದು, ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸದರಿ ಸಂಸ್ಥೆ ಮತ್ತು ನಿರ್ದೇಶಕರುಗಳು ಸುಮಾರು 100 ಕೋಟಿಗಿಂತ ಮಿಗಿಲು ಹಣವನ್ನು ಸಾರ್ವಜನಿಕರಿಂದ ಸ್ವೀಕರಿಸಿರುವ ಬಗ್ಗೆ ಮಾಹಿತಿ ಇದ್ದು, ಈ ಕುರಿತಂತೆ ತಮ್ಮ ಲೆಕ್ಕ ಪತ್ರಗಳನ್ನು ಮತ್ತು ಮಾಹಿತಿಗಳನ್ನು ನೀಡದೇ ಹಿಂದೇಟು ಹಾಕಿರುತ್ತಾರೆ. ಅನೇಕ ಬಾರಿ ನಾನು ಸಾರ್ವಜನಿಕರಿಂದ ಸ್ವೀಕರಿಸಿದ ಹಣದ ಒಟ್ಟು ಮೊಬಲಗು ಮಾಹಿತಿ ನೀಡಿ ಎಂದು ಕೇಳಿದ್ದಾಗಿಯೂ ಕೂಡ ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸದರಿ ಸಂಸ್ಥೆಯು ನೀಡಿದ ಮಾಹಿತಿ ಮೇಲೆ ಸುಮಾರು 100 ಕೋಟಿ ಮಿಗಿಲು ಹಣವನ್ನು ಸಾರ್ವಜನಿಕರಿಂದ ಈ ಅನಿಯಂತ್ರಿತ ಯೋಜನೆ ಅಡಿಯಲ್ಲಿ ಆರೋಪಿತರು ಸ್ವೀಕರಿಸಿ ಅಪರಾಧ ಎಸಗಿರುತ್ತಾರೆ.

7. SEBI ಸಂಸ್ಥೆಯವರು ತಮ್ಮ ಪತ್ರ PR No. 70/2025, dated 08.11.2025 ರ ಮೂಲಕ ಸಾರ್ವಜನಿಕರಿಗೆ ಈ ರೀತಿಯ ಡಿಜಿಟಲ್ ಗೋಲ್ಡ್/ಇ-ಗೋಲ್ಡ್ ಪ್ರಾಡಕ್ಟ್ಸ್

ವ್ಯವಹಾರವು ಅನಿಯಂತ್ರಿತವಾಗಿದೆ ಎಂದು ಸ್ಪಷ್ಟಪಡಿಸಿರುತ್ತದೆ ಮತ್ತು ಈ ಕುರಿತಂತೆ ಬಡ್ಸ್ ಅಧಿನಿಯಮದಡಿ, ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಸೂಚಿಸಿರುತ್ತದೆ.

8. ಸದರಿ ಸಂಸ್ಥೆ ಮತ್ತು ನಿರ್ದೇಶಕರುಗಳು ತಾವು ಮಾಡುತ್ತಿರುವ ವ್ಯವಹಾರವು ಅನಿಯಂತ್ರಿತವಾಗಿವೆ ಎಂದು ತಿಳಿದೂ ಸಹ ಸಾರ್ವಜನಿಕರಿಗೆ ನಿಜ ಸಂಗತಿಯನ್ನು ತಿಳಿಸದೇ ತಮ್ಮ ಡಿಜಿಟಲ್ ಪ್ಲಾಟ್‌ಫಾರ್ಮ್ ಮೂಲಕ ಇ–ಖಾತೆಯನ್ನು ತೆರೆದು ಹಣ ಹೂಡಿಕೆ ಮಾಡುವುದರ ಮೂಲಕ ಚಿನ್ನ ಖರೀದಿಸಿ ಠೇವಣಿ ಇಟ್ಟುಕೊಂಡು ತಮಗೆ ಬೇಕಾದಾಗ ಮಾರಿದ ಹಣವನ್ನು ಅವರ ಖಾತೆಯಿಂದ ಸಂಸ್ಥೆ ಮೂಲಕ ಸೆಳೆದುಕೊಳ್ಳಬಹುದು ಎಂದು ನಂಬಿಸಿ ಸುಮಾರು 3.3 ಕೋಟಿ ಜನರಿಂದ ಸುಮಾರು 100 ಕೋಟಿಗಿಂತ ಹೆಚ್ಚು ಹಣವನ್ನು ಸ್ವೀಕರಿಸಿ ಹೂಡಿಕೆ ಮಾಡಿಸಿಕೊಂಡು ನಂತರ ಮರಳಿಸದೇ ಮೋಸ ಮಾಡುವ ಪ್ರಯತ್ನದಲ್ಲಿರುವುದು ಕಂಡುಬರುತ್ತಿದೆ.

9. ಸದರಿ ಬಡ್ಸ್ ಅಧಿನಿಯಮದ ಕಲಂ 21(1) ಮತ್ತು (2) ಅಪರಾಧವು ಸದರಿ ಅಧಿನಿಯಮದ ಕಲಂ 28 ರಡಿ ಸಂಜ್ಞೆ ಮತ್ತು ಜಾಮೀನು ರಹಿತ ಅಪರಾಧವಾಗಿದ್ದು, ಪೊಲೀಸರಿಗೆ ಪ್ರಕರಣ ದಾಖಲಿಸಿಕೊಂಡು ತನಿಖೆ ಮಾಡಲು ಅಧಿಕಾರವಿದೆ, ಜೊತೆಗೆ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಕ್ರಿಮಿನಲ್ ಪಿಟಿಷನ್ ಸಂ. 100048/2024 ಜೊತೆಗೆ ಕ್ರಿಮಿನಲ್ ಪಿಟಿಷನ್ ಸಂ. 102510/2023 ರಲ್ಲಿ ದಿನಾಂಕ 17.01.2025ರಂದು ನೀಡಿದ ತೀರ್ಪಿನನುಸಾರ ಇಂತಹ ಪ್ರಕರಣಗಳನ್ನು ಪೊಲೀಸ್ ಠಾಣಾಧಿಕಾರಿಯು ದಾಖಲಿಸಿಕೊಂಡು ತನಿಖೆ ಮಾಡಲು ಅಧಿಕಾರವಿದೆ ಎಂದು ತೀರ್ಪು ನೀಡಿದ್ದರ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸರ್ಕಾರದ ಪರವಾಗಿ ನಾನು ಈ ದಿನ JAR GOLD RETAIL PRIVATE LIMITED ಕಂಪನಿ ಹಾಗೂ ಸಹ ಕಂಪನಿಗಳು ಮತ್ತು ಅದರ ನಿರ್ದೇಶಕರುಗಳಾದ1) Misbah Ashraf, 2) Sandesh Nahar, 3) Nishchay Babu Arkalgud ರವರುಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರಿ ದೂರು ಸಲ್ಲಿಸುತ್ತಿರುತ್ತೇನೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-
(ಶ್ರೀಕಂಠೇಗೌಡ.ಬಿ.)
ಪಿ.ಎಸ್.ಐ,
ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆ,
ಬೆಂಗಳೂರು ನಗರ."

<u>ಲಗತ್ತುಗಳು</u>:

1) ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆ ಡಿ.ಪಿ.ಆರ್ ನಂ. 633/2025.

2) Jar Gold Retail Private Limited & Jarfin Retail Private Limited : ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೆಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರ ಜ್ಞಾಪನಾ ನಂ.ಸಿಆರ್.ಎಂ/591/ಡಿಸಿಪಿ(ಆವಿ)/2025, ದಿ:20/11/2025.

3) Jar Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ ಮಾನ್ಯ ಪೊಲೀಸ್ ಆಯುಕ್ತ ರವರ ಕಛೇರಿ ಜ್ಞಾಪನ ನಂ.54/ಅಪರಾಧ-4/ ಸಿಓಪಿ/2025, ದಿ:10/11/2025.

4) Jar Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ ಮಾನ್ಯ ಮಹಾ ನಿರ್ದೇಶಕರು & ಆರಕ್ಷಕ ಮಹಾ ನಿರೀಕ್ಷಕರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ ರವರ ಕಛೇರಿ ಪತ್ರ ನಂ.ಅಪರಾಧ-12/45/2025, ದಿ:21/10/2025.

5) RBI MI Unit ರವರ ಈಮೇಲ್ ದಿನಾಂಕ:13/10/2025ರ ಪ್ರತಿ & ಅದರೊಂದಿಗೆ ಇರುವ ದಾಖಲಾತಿಗಳ ಪ್ರತಿಗಳು.

6) ಆರ್.ಬಿ.ಐ ಎಂ.ಐ ಯೂನಿಟ್ ರವರ ಈಮೇಲ್ ದೂರಿನ ಮೇಲೆ ಕಲಂ 173(3)(1) ಬಿ.ಎನ್.ಎಸ್.ಎಸ್ ಅಡಿ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆ ಕೈಗೊಳ್ಳಲು ಮಾನ್ಯ ಸಹಾಯಕ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಮಡಿವಾಳ ಉಪ ವಿಭಾಗ ರವರಿಂದ ಪಡೆದಿರುವ ಪಡೆದಿರುವ ಅನುಮತಿ ಪತ್ರ ದಿ:25/11/2025.

7) Jar Gold Retail Private Limited ಕಂಪನಿ ನಿರ್ದೇಶಕರುಗಳಿಗೆ ದಾಖಲಾತಿಗಳನ್ನು ಹಾಜರುಪಡಿಸುವಂತೆ ಕೊಟ್ಟಿರುವ ನೋಟಿಸ್ ದಿ:26/11/2025.

8) Jar Gold Retail Private Limited ಕಂಪನಿ ರವರ ರಿಪ್ಲೈ ಪತ್ರ ದಿ:01/12/2025.

9) Jar Gold Retail Private Limited ಕಂಪನಿ ನಿರ್ದೇಶಕರುಗಳಿಗೆ ದಾಖಲಾತಿಗಳನ್ನು ಹಾಜರುಪಡಿಸುವಂತೆ ಕೊಟ್ಟಿರುವ ನೋಟಿಸ್ ದಿ:04/12/2025.

10) Jar Gold Retail Private Limited ಕಂಪನಿ ರವರ ರಿಪ್ಲೈ ಪತ್ರ ದಿ:12/12/2025 & ಸದರಿಯವರು ಹಾಜರುಪಡಿಸಿರುವ ದಾಖಲಾತಿಗಳು.

11) SEBI, Southeren Regional Office, Chennai ರವರಿಗೆ Jar Gold Retail Private & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ಸಂಬಂಧ ಮಾಹಿತಿ ನೀಡುವಂತೆ ಈಮೇಲ್ ಮುಖಾಂತರ ಕೊಟ್ಟಿರುವ ನೋಟಿಸ್ ದಿ:05/12/2025.

12) ಆರ್.ಬಿ.ಐ ಪಿಟಿಷನ್ ಸಂಬಂಧ ಆಪಾದಿತ ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕೈಗೊಳ್ಳಬಹುದಾದ ಕ್ರಮದ ಬಗ್ಗೆ ಕಾನೂನು ಸಲಹೆಗಾರರಿಂದ ಅಭಿಪ್ರಾಯ ವರದಿ ಕೊಡಿಸಿಕೊಡುವಂತೆ ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೆಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರಿಗೆ ಕೋರಿರುವ ಮನವಿ ದಿ:05/12/2025.

13) Chief Manager, Investment Management department, SEBI, Mumbai ರವರಿಗೆ Jar Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ಸಂಬಂಧ ಮಾಹಿತಿ ನೀಡುವಂತೆ ಕೊಟ್ಟಿರುವ ನೋಟಿಸ್ ದಿ:08/12/2025.

14) ಆರ್.ಬಿ.ಐ, ಎಂ.ಐ ಯೂನಿಟ್ ರವರ ಮೇಲ್ ದೂರಿನ ಮೇಲೆ ಕೈಗೊಂಡಿರುವ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆ ಸಂಬಂಧ ವರದಿಯನ್ನು ಮಾನ್ಯ ಸಹಾಯಕ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಮಡಿವಾಳ ಉಪ ವಿಭಾಗ ರವರಿಗೆ ನಿವೇದಿಸಿಕೊಂಡಿರುವ ಪತ್ರ ದಿ:05/12/2025.

15) ಆರ್‌ಬಿಐ ರವರಿಗೆ ಈಮೇಲ್ ಮುಖಾಂತರ ದೂರು ನೀಡಿದ್ದ Lakshminarasimhan Santhanam ರವರಿಗೆ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡುವ ಸಂಬಂಧ ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ಲಿಖಿತ ದೂರನ್ನು ನೀಡುವಂತೆ ಕೊಟ್ಟಿರುವ ನೋಟಿಸ್ ದಿ:19/12/2025.

16) SEBI ರವರ ಪತ್ರಿಕಾ ಪ್ರಕಟಣೆ PR No.70/2025, ದಿ:08/11/2025.

17) ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೆಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರು ಮಾನ್ಯ ಕಾನೂನು ಸಲಹೆಗಾರರು, ಪೊಲೀಸ್ ಆಯುಕ್ತ ರವರ ಕಛೇರಿ, ಬೆಂಗಳೂರು ನಗರ ರವರಿಗೆ Jar Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ಅಭಿಪ್ರಾಯ ವರದಿ ನೀಡುವಂತೆ ಕೋರಿರುವ ಮನವಿ ದಿ:08/12/2025.

18) ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೆಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರು ಕಾನೂನು ಸಲಹೆಗಾರರು, ಪೊಲೀಸ್ ಆಯುಕ್ತ ರವರ ಕಛೇರಿ, ಬೆಂಗಳೂರು ನಗರ ರವರ

ಅಭಿಪ್ರಾಯ ವರದಿಯನ್ನು ಮುಂದಿನ ಕ್ರಮದ ಸಂಬಂಧ ಕೋರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಕಳುಹಿಸಿ ಕೊಟ್ಟಿರುವ ಜ್ಞಾಪನ ನಂ.ಸಿ.ಆರ್.ಎಂ./664/ಡಿಸಿಪಿ(ಆವಿ)/2025, ದಿ:20/12/2025.

19) ಕಾನೂನು ಸಲಹೆಗಾರರು, ಪೊಲೀಸ್ ಆಯುಕ್ತ ರವರ ಕಛೇರಿ, ಬೆಂಗಳೂರು ನಗರ ರವರು ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೇಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರಿಗೆ Jar Gold Retail Private Limited & Jarfin Retail Private Limited ಕಂಪನಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ ಕೊಟ್ಟಿರುವ ಅಭಿಪ್ರಾಯ ದಿ:17/12/2025.

20) Jar Gold Retail Private Limited ಕಂಪನಿ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ Manager, SEBI, Southern Regional Office ರವರು ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಿಗೆ ಕಳುಹಿಸಿರುವ ಪತ್ರ ನಂ.SEBI/SRO/P/OW/2025/27057, ದಿ:17/10/2025 & ಈ ಸಂಬಂಧ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಸೂಚಿಸಿರುವ 1)ಮಾನ್ಯ ಉಪ ಪೊಲೀಸ್ ಆಯುಕ್ತರು, ಆಗ್ನೇಯ ವಿಭಾಗ, ಬೆಂಗಳೂರು ರವರ ಜ್ಞಾಪನ ನಂ.ಸಿ.ಆರ್.ಎಂ./663/ಡಿಸಿಪಿ(ಆವಿ)/2025, ದಿ:19/12/2025, 2)ಮಾನ್ಯ ಪೊಲೀಸ್ ಆಯುಕ್ತ ರವರ ಕಛೇರಿ ಜ್ಞಾಪನ ನಂ.54/ಅಪರಾಧ-4/.ಸಿಓಪಿ/2025, ದಿ:06/12/2025, 3) ಮಾನ್ಯ ಮಹಾ ನಿರ್ದೇಶಕರು & ಆರಕ್ಷಕ ಮಹಾ ನಿರೀಕ್ಷಕರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ ರವರ ಕಛೇರಿ ಪತ್ರ ನಂ. ಅಪರಾಧ-12/45/2025, ದಿ:11/11/2025."

ಈ ದಿನ ದಿನಾಂಕ16/01/2026 ರಂದು ಬೆಳಿಗ್ಗೆ 10:30 ಗಂಟೆಗೆ ಪಿರ್ಯಾದಿ PSI-2 ಶ್ರೀಕಂಠೇಗೌಡ ಬಿ., ಕೊರಮಂಗಲ ಪೊಲೀಸ್ ಠಾಣೆ ರವರು ನೀಡಿದ ದೂರನ್ನು ಪಡೆದು ದೂರಿನ ಮೇರೆಗೆ ಠಾಣಾ ಮೊ.ಸಂ. 25/2016 -ಕಲಂ 21(1) ಮತ್ತು 21 (2) BUDS Act 2019 ರೀತ್ಯ ಪ್ರಕರಣ ದಾಖಲಿಸಿಕೊಂಡಿರುತ್ತೆ."

The complaint leads to seizure of several materials. All that led the petitioners to this Court. The contention is that it does not amount to a deposit under the Act. Section 21 and 22 of the Act reads as follows:

> "**21. Punishment for contravention of section 3.** — (1) Any deposit taker who solicits deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees.

(2) Any deposit taker who accepts deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than three lakh rupees but which may extend to ten lakh rupees.

… … …

22. Punishment for contravention of section 4. — Any deposit taker who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to seven years, or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of the fraudulent default referred to in said section, whichever is higher, or with both."

Section 2(4) defines what is a deposit. It reads as follows:

"**2. Definitions**.— …….

(4) "deposit" means an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include—

(*a*) amounts received as loan from a scheduled bank or a co-operative bank or any other banking company as defined in Section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(*b*) amounts received as loan or financial assistance from the Public Financial Institutions notified by the Central Government in consultation with the Reserve Bank of India or any non-banking financial company as defined in clause (*f*) of Section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) and is registered with the Reserve Bank of India or any Regional Financial Institutions or insurance companies;

(*c*) amounts received from the appropriate Government, or any amount received from any other source whose repayment is guaranteed by the appropriate Government, or any amount received from a statutory authority constituted under an Act of Parliament or a State Legislature;

(*d*) amounts received from foreign Governments, foreign or international banks, multilateral financial institutions, foreign Government owned development financial institutions, foreign export credit collaborators, foreign bodies corporate, foreign citizens, foreign authorities or person resident outside India subject to the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules and regulations made thereunder;

(*e*) amounts received by way of contributions towards the capital by partners of any partnership firm or a limited liability partnership;

(*f*) amounts received by an individual by way of loan from his relatives or amounts received by any firm by way of loan from the relatives of any of its partners;

(*g*) amounts received as credit by a buyer from a seller on the sale of any property (whether movable or immovable);

(*h*) amounts received by an asset re-construction company which is registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(*i*) any deposit made under Section 34 or an amount accepted by a political party under Section 29-B of the Representation of the People Act, 1951 (43 of 1951);

(*j*) any periodic payment made by the members of the self-help groups operating within such ceilings as may be prescribed by the State Government or Union territory Government;

(*k*) any other amount collected for such purpose and within such ceilings as may be prescribed by the State Government;

(*l*) an amount received in the course of, or for the purpose of, business and bearing a genuine connection to such business including—

(*i*) payment, advance or part payment for the supply or hire of goods or provision of services and is repayable in the event the goods or services are not in fact sold, hired or otherwise provided;

(*ii*) advance received in connection with consideration of an immovable property under an agreement or arrangement subject to the condition that such advance is adjusted against such immovable property as specified in terms of the agreement or arrangement;

(*iii*) security or dealership deposited for the performance of the contract for supply of goods or provision of services; or

(*iv*) an advance under the long-term projects for supply of capital goods except those specified in item (*ii*):

Provided that if the amounts received under items (*i*) to (*iv*) become refundable, such amounts shall be deemed to be deposits on the expiry of fifteen days from the date on which they become due for refund:

Provided further that where the said amounts become refundable, due to the deposit taker not obtaining necessary permission or approval under the law for the time being in force, wherever required, to deal in the goods or properties or services for which money is taken, such amounts shall be deemed to be deposits.

Explanation.—For the purposes of this clause,—

(*i*) in respect of a company, the expression "deposit" shall have the same meaning as assigned to it under the Companies Act, 2013 (18 of 2013);

(*ii*) in respect of a non-banking financial company registered under the Reserve Bank of India Act, 1934 (2 of 1934), the expression "deposit" shall have the same meaning as assigned to it in clause (*bb*) of Section 45-I of the said Act;

(*iii*) the expressions "partner" and "firm" shall have the meanings respectively assigned to them under the Indian Partnership Act, 1932 (9 of 1932);

(*iv*) the expression "partner" in respect of a limited liability partnership shall have the same meaning as assigned to it in clause (*q*) of sub-section (1) of Section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009);

(*v*) the expression "relative" shall have the same meaning as assigned to it in the Companies Act, 2013 (18 of 2013);"

(Emphasis supplied)

The provisions of the Act define "deposit" in expansive terms and the argument that the statute must be construed narrowly, so as to exclude digital or gold backed arrangements stands repelled.

9. **The evolution of digital gold, as a commercial concept, is not in dispute. However, the materials on record disclose that serious allegations are surfaced, including assertions that physical gold could not be traced when demanded, notwithstanding the assurances to the contrary. Searches have allegedly yielded gold bearing the Company's branding at the premises of the office bearers.** The learned senior counsel has strenuously contended that there is an agreement entered into between the Brinks India Private Limited and the petitioners for storage of gold and would contend that all the gold is stored in the vault of Brinks India Private Limited. **With all this staring, this Court cannot lend its protective hands to the petitioners and obliterate the crime in its incipient stage.** Investigation in such cases is imperative, as the investors have already made hue and cry through communications between them that there is no gold and no money.

10. **In the light of circumstances giving rise to sharply contested questions of fact, which cannot be adjudicated in the proceedings of this nature, at this juncture, as it is well settled principle of law that power**

to quash criminal proceedings in exercise of jurisdiction under Section 528 of the BNSS is an exception and not the rule. The Apex Court has repeatedly cautioned that Courts must refrain from embarking upon appreciation of disputed facts or evaluating the probative worth of material, at the stage of investigation. It becomes apposite to refer to the judgment of the Apex Court in the case of **KAPTAN SINGH v. STATE OF UTTAR PRADESH ((2021) 9 SCC 35),** wherein the Apex Court has held as follows:

"…. …. ….

> **9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr.P.C.,, has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr.P.C.,, quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance.** From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. **If the petition under Section 482 Cr.P.C.,, was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation.** Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the

allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.**

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 Cr.P.C.,, to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 Cr.P.C.,, though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C., Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously

disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

> 14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C., is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 Cr.P.C., only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed."

(Emphasis supplied)

The Apex Court in **KAPTAN SINGH** has clearly held that interference at the juncture of the investigation, except in exceptional circumstances, **would amount to stifling of legitimate enquiry and would run afoul of binding precedents.**

11. **The submission that the Act stands uninvoked in the present circumstances is entirely bereft of merit and cannot be countenanced. The absence of express regulatory supervision by bodies such as SEBI or the RBI over the purchase or storage of gold, be it in tangible form or in its digital avatar, does not confer upon such transactions a sanctuary beyond the reach of the statute.** The argument that deposit is not in currency or hard cash but in gold, physical or digital, is equally unavailing. **"Law is concerned not with the cosmetic garb in which a transaction is clothed, but with its intrinsic character and its economic substance. In the rapidly mutating landscape of cyber enabled financial frauds, deception no longer adheres to the crude paradigm of cash deposits." It now assumes a subtler and more sophisticated forms –**

> **commodities, digital assets, gold linked assurances and other alluring constructs designed to circumvent regulatory vigilance."**

The said order was tossed before the Apex Court and the Special Leave Petition against it comes to be rejected.

10. After the rejection, the respondent/Company files three separate applications before the Court of Session under Section 15(3) of the Banning of Unregulated Deposit Schemes Act, 2019 ('BUDS Act' for short) read with Sections 497 and 503 of the BNSS seeking release of the property seized pursuant to the investigation and de-freezing of bank accounts. The Court of Session, by the impugned orders dated 04-04-2026 allowed the applications; reasons in one of the orders passed are as follows:

"**REASONS**

> 7. **Point No. 1**: Koramangala Police have registered this case i.e. Crime No.25/2026 against the Accused Nos. 1 to 4 for the offenses punishable under Sections 21(1) and 21 of Banning of Unregulated Deposit Schemes Act, 2019, based on a complaint lodged by Sri Ranjith on Srikantegowda B on 16.1.2026.
>
> 8. The Investigating Officer during the course of investigation has seized the following gold and silver bars:

Sl.No.	Description of the metal	Weight in kgs
1.	Gold 1 kg bar 995	784
2.	Gold 100 gm bar 995	11.5
3.	Gold 100 Gm Bar 999	725.5
4.	Silver 1 Kg Bar	52
5.	Silver 30 Kg bar	2489.181

9. The Applicant has sought for releasing of these articles as claimed in the application referred above for the reasons stated in the application.

10. The material placed on record indicates that Accused No. 4 is a registered company engaged in the business of sale of physical gold through an online platform. The Applicant has produced documents to show that upon receipt of consideration from customers, tax invoices are generated and ownership in the gold is transferred to such customers. Prima facie, such transactions bear the characteristics of completed contracts of sale governed by the sale of Goods Act, 1930, rather than deposit-taking activities.

11. It is significant to note that as on date no complaints have been placed on record from any customer alleging non-delivery of gold or non-payment of monies. There is also no material to demonstrate any default on the part of the Applicant in fulfilling its contractual obligations. In the absence of identifiable aggrieved depositors, the essential ingredient of a "deposit scheme" under the Banning of Unregulated Deposit Schemes Act, 2019 is not prima facie established.

12. The Investigating Agency itself has verified that substantial quantities of gold approximately 1,521 kilograms are stored with M/s The Brinks India Private Limited. This circumstance lends support to the Applicant's contention that the business involves actual backing of customer purchases with physical gold, thereby negating, at this stage, the allegation of a fictitious or sham deposit scheme.

13. The Applicant has asserted and prima facie demonstrated that upon completion of sale transactions, ownership in the gold passes to the respective customers. If

such position is accepted, the seized gold cannot be treated as the property of the Applicant or as proceeds of crime attributable to it. The seizure therefore affects the rights of third-party customers who are not accused in the present case.

14. For property to be retained or confiscated, there must exist a reasonable nexus between the property and the alleged offence. In the present case, no material has been placed to show that the seized gold constitutes proceeds of any offence or that it is directly linked to any illegal deposit activity. Mere allegations, without supporting evidence, are insufficient to justify continued seizure.

15. It is to be noted that a suo-motu case is registered by the police and it is not a case that any victims have filed such complaint. It is the contention of the police that one Lakshminarasimhan Santhanam had sent a mail dated 20.07.2025 to Department of Supervision and Market intelligence Unit of RBI expressing some concern about the manner which the business is run by A4-Company. Based on the said e-mail, the said Market Intelligence Unit of RBI has forwarded an e-mail request dated 13.10.2025 noting the concern expressed by said Lakshminarasimhan Santhanam and further that these companies are not regulated by RBI, but are registered under Registrar of Companies, Bengaluru, the said mail is also forwarded to said ROC for necessary action and further it is noted that it is advise that the inputs are forwarded to CID and AIGP Crime, for information necessary action, if any. Hence, the learned Public Prosecutor would contend that based on such observations made by MIU of RBI, Bengaluru, the police have registered a suo-motu case and currently it is being investigated by CID Wing. At this stage, it is pertinent to note that in spite of issuance of notice to said Lakshminarasimhan Santhanam, he has not appeared before the police and not placed any materials in respect of his allegations made in e-mail dated 20.7.2025. No particulars or identity of said Lakshminarasimhan Santhanam is forthcoming, except for his e-mail address. The materials on record would show that SEBI as well as RBI have long ago clarified that no specific permission from them is required for conducting the nature of business as undertaken by Accused No.4-company.

16. The learned Counsel for Accused No.4 has placed on record memo dated 25.3.2026 wherein it is stated that apart from Accused No.4 - Company, six other reputed companies are doing similar business in a much more larger scale. The said six companies are noted as MMTC-PAMP India Private Limited, Titan company Limited 'Tanisha', Aditya Birla Capital - Wealth, 'Cartlane', Jio Finance and PayTM.

17. Though the learned Public Prosecutor has pointed out that Hon'ble High Court of Karnataka vide Order dated 4.3.2026 in Crl. P. No. 5968/2026 has dismissed the petition of Accused for quashing the criminal case, yet there appears to be lot of confusion on the side of the police authorities in regard to the exact nature of offence allegedly committed by Accused No.4 - Company and the applicability of particular penal provisions of law. MIU of RBI Bengaluru had only cautioned the police department to take action as per law vide their e-mail communication dated 13.10.2025. Several other big companies are already in the business and surprisingly no action is initiated as against the said companies who are big players in the market. It is also pertinent to note that neither the Central or State Government has prohibited the said business. Moreover, it is difficult to appreciate the stand of the Investigating Agency that Accused No.4 company is indulging in "deposits", as per the BUDS Act. No speculative business is being done by Accused No.4 company and as against the purchase of the gold, the equivalent and much more than the same in quantity in terms of gold and silver metals are already stored and available with M/s Brinks India Private Limited. The Accused No.4 company has been doing the business since several years and has been submitting the audit and other reports with the Registrar of Companies. It is also to be appreciated that huge amount of GST and IT is being paid by the company regularly. The materials on record would show that several lakhs of people by accessing though online platform are doing business with Accused No.4 company. The Investigating Officer has pointed out only a few negative comments made by few persons who had done business with the company but not taken to consideration that positive remarks made by thousands of customers. The very materials on record by Investigating Agency would show that merely on suspicion and surmises and

conjectures, the police have registered the case and probably continuing investigation without any proper direction or lead.

18. Despite the lapse of considerable time since registration of the FIR and seizure of property, no charge sheet has been filed. The Applicant has cooperated with the investigation throughout. Continued retention of the seized property, in the absence of progress in investigation or incriminating material, is unjustified and causes undue hardship. While the prosecution has expressed apprehension that release of the seized property may enable the accused to continue alleged illegal activities, such apprehension can be adequately addressed by imposing appropriate conditions. In view of the foregoing reasons, this Court is of the considered opinion that the Applicant has made out a case for release of the seized gold and silver articles. Accordingly, Point No.1 is answered in the ***Affirmative***.

19. **Point No.2**: In the result, this Court proceeds to pass the following:

ORDER

I.A. No.II dated 18.3.2026 filed by Accused No.4 under Section 15(3) of Banning of Unregulated Deposit Schemes Act, 2019 read with Section 497 and 503 of Bharatiya Nagarika Suraksha Sanhita, 2023, is hereby allowed.

Sl.No.	Description of the metal	Weight in kgs
1.	Gold 1 kg bar 995	784
2.	Gold 100 gm bar 995	11.5
3.	Gold 100 Gm Bar 999	725.5
4.	Silver 1 Kg Bar	52
5.	Silver 30 Kg bar	2489.181

The attachment under letter dated 18.2.2026 bearing No.CRM/11/DFID/CID-2026 issued under Section 94 and 106 of Bharatiya Nagarik Suraksha Sanhita, 2023 by the Investigating Officer is canceled and further the Order to freeze against the

> aforesaid precious metal held with M/s Brinks India Private Limited is lifted.
>
> The Applicant shall execute indemnity bond and surety bond towards the worth of the said precious metal undertake to produce the same before the Court whenever called upon and to abide by any other directions passed by the Court."

The State preferred the subject petitions calling in question the said orders on the score that the account could not have been directed to be de-frozen and the seized material could not have been directed to be released. This Court grants an interim order which is noted hereinabove. The matter is heard and the fulcrum of the submissions are also noted *supra*.

11. In the conspectus of the submissions and the contra-submissions advanced at the Bar, the controversy that emerges for consideration lies in a narrow, yet significant, compass:

"whether the act of placing a debit freeze upon a bank account must be preceded by permission of the learned Magistrate, as contemplated under Section 107 BNSS, or whether the investigating agency may proceed to freeze the account and thereafter merely report the factum of such seizure/freezing to the learned Magistrate, as obtaining under Section 106 of the BNSS?"

The answer to this issue would necessarily determine the legality of the debit freeze imposed upon the account in the case at hand.

ANALYSIS AND ANSWER:

12. To unravel the aforesaid conundrum, it becomes necessary to travel, *albeit* briefly, through the statutory terrain—first to the provision that held the field under the erstwhile Cr.P.C. and thereafter to its counterparts under the BNSS. The predecessor legislation to the BNSS was the Cr.P.C. Under the Cr.P.C., it was **Section 102 of the Cr.P.C.** that clothed the Police with the power to seize property suspected to have a nexus with the commission of an offence and regulated the exercise of such power. Section 102 of the Cr.P.C., which formed the statutory fulcrum for action of the kind that is called in question in the case at hand, reads as follows:

THE STATUTORY TERRAIN :

SECTION 102 OF CR.P.C.:

> "**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."

Section 102 of the Cr.P.C. thus held the field and governed the power of seizure during the course of investigation. The statutory scheme was unmistakably clear. Where an Investigating Officer, in exercise of power under Section 102, seized any property—including, as judicial interpretation came to recognise, the freezing of a bank account—the law did not mandate that he should first knock at the doors of the jurisdictional Magistrate and secure permission before effecting such seizure or debit freeze. The power of seizure was exercisable by the Police in the course of investigation; what followed the exercise of that power was the statutory obligation engrafted in sub-section (3) of Section 102 of the Cr.P.C. Sub-section (3) mandated that **every seizure of property under Section 102 of the Cr.P.C. should be forthwith reported to the jurisdictional Magistrate**.

13. The architecture of the provision was, therefore, one of **seizure first and intimation thereafter**, and not one of **permission first and seizure thereafter**. The Investigating Officer was empowered to act when circumstances contemplated under Section 102 of the Cr.P.C. existed, subject, however, to the imperative obligation of reporting such action to the jurisdictional Magistrate without loss of time. This was the legal regime that held the field throughout the currency of the Cr.P.C. The distinction is subtle in expression, but substantial in consequence—**Section 102 of the Cr.P.C. contemplated judicial intimation of an**

accomplished seizure; it did not contemplate judicial authorisation as a condition precedent to seizure.

THE NEW REGIME - THE BNSS, 2023

14. The BNSS brings in a change with effect from 01-07-2024. Section 106 of the BNSS retains the character of Section 102 of the Cr.P.C. What is brought in is Section 107, a new provision in BNSS. Therefore, it is necessary to notice both Sections 106 and 107 of the BNSS. They read as follows:

> "**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 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, 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 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."

Section 106 of the BNSS, as observed hereinabove, is, in substance and structure, a mirror image of Section 102 of the Cr.P.C. Section 106 deals with the power of a Police Officer to seize certain property. It empowers any Police Officer to seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances that create suspicion of the commission of any offence. The source, sweep and circumstance for exercise of the power of seizure under Section 106 of the BNSS, therefore, remain substantially what they were under Section 102 of the erstwhile Cr.P.C.

15. What assumes significance for the issue at hand is sub-section (3) of Section 106 of the BNSS. It mandates that every Police Officer acting under sub-section (1) shall **forthwith report the seizure to the Magistrate having jurisdiction**. This requirement is not merely reminiscent of sub-section (3) of Section 102 of the Cr.P.C.; it is substantially identical to it. The Legislature, while ushering in the new procedural regime under the BNSS, has thus consciously retained the earlier statutory architecture insofar as seizure under this provision is concerned.

16. The sequence contemplated under Section 106 of the BNSS is, therefore, plain. The Police Officer exercises the power of seizure when the circumstances contemplated under sub-section (1) exist, and the seizure so effected is thereafter required to be reported forthwith to the jurisdictional Magistrate under sub-section

(3). The provision does not, in its text, make prior permission of the Magistrate a condition precedent for exercise of the power under Section 106. It continues the erstwhile regime of **seizure followed by forthwith reporting**, rather than **prior judicial permission followed by seizure**. If Section 106 of the BNSS were the solitary provision governing the controversy, perhaps little difficulty would arise. The conundrum, however, emerges with the advent of **Section 107 of the BNSS**, a provision which has no exact counterpart in Section 102 of the Cr.P.C. and which employs a markedly different statutory vocabulary. It is at the intersection of Sections 106 and 107 of the BNSS that the present controversy truly lies, and it is there that the statutory knot requires to be untied.

17. The statutory landscape, however, does not stop at Section 106 of the BNSS. The BNSS brings in its wake a new provision—**Section 107 of the BNSS**, captioned *"Attachment, forfeiture or restoration of property"*. It is this provision that introduces an altogether distinct statutory mechanism and, therefore, assumes considerable significance in answering the issue

that has fallen for consideration. Section 107 of the BNSS operates in a field different from a mere seizure contemplated under Section 106 of the BNSS. Sub-section (1) of Section 107 mandates that where a Police Officer, in the course of investigation, has reason to believe that any property is derived or obtained, directly or indirectly, as a result of criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or the Commissioner of Police, make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit the case for trial, seeking attachment of such property. **Thus, unlike Section 106 of the BNSS, Section 107 of the BNSS does not clothe the Investigating Officer with power to first attach the property and report thereafter. It places the proposed attachment within a structured judicial process**.

18. The statutory progression becomes clearer under sub-section (2) of Section 107. Upon receipt of an application under sub-section (1), if the Court or the Magistrate has reason to believe—whether before or after taking evidence—that all or any of

the properties in question constitute **“proceeds of crime”**, the Court or the Magistrate may issue notice to the person concerned, calling upon him to show cause as to why an order of attachment should not be made. The formation of opinion concerning the character of the property as proceeds of crime is, therefore, placed in the hands of the Court or the Magistrate and is ordinarily preceded by an opportunity to the person whose property is sought to be attached.

19. The Legislature has, at the same time, been alive to situations where delay may defeat the very object of attachment. Therefore, sub-section (5) of Section 107 empowers the Court or the Magistrate, in circumstances contemplated therein, to pass an ***ex parte* order of attachment**. Even this exceptional power is significant for the present controversy: the power to attach *ex parte* is vested not in the Investigating Officer acting by himself, but in the **Court or the Magistrate** upon the statutory conditions being satisfied. The architecture of Section 107 of the BNSS is thus unmistakably different from that of Section 106 of the BNSS. **Section 106 of the BNSS speaks of seizure by the Police**

followed by forthwith reporting to the Magistrate; Section 107 of the BNSS speaks of attachment of property believed to be derived or obtained from criminal activity through the intervention and order of the Court or the Magistrate. The former recognises an investigative power followed by judicial intimation; the latter engrafts a judicial process into the very act of attachment. It is this distinction—between *seizure* under Section 106 of the BNSS and *attachment of proceeds of crime* under Section 107 of the BNSS—that must illuminate the answer to the controversy at hand.

20. In the case at hand, the investigation has led to seizure of properties of varied description. One amongst such measures, and the one which has generated the present controversy, is the **debit freezing of the bank accounts held by the Company**. The orders impugned direct release of the properties so seized and de-freezing of the accounts. The fulcrum of the submission in support of the impugned orders is that the action of the Investigating Officer, in freezing the accounts without recourse to

the procedure contemplated under Section 107 of the BNSS, is rendered illegal.

21. The submission on the other side travels on a different statutory track. The learned *Amicus Curiae* and the learned State Public Prosecutor-1 would contend that debit freezing of a bank account is not an attachment within the meaning of Section 107 of the BNSS at all, but is a species of seizure squarely traceable to the power conferred upon the Police under Section 106 of the BNSS. Their submission is that once the Investigating Officer has exercised such power and has forthwith reported the seizure to the jurisdictional Magistrate, the mandate of sub-section (3) of Section 106 of the BNSS stands fulfilled. According to them, to insist upon prior permission of the Court or the Magistrate under Section 107 of the BNSS for every debit freeze would be to transplant the procedure of attachment into the distinct statutory province of seizure.

THE KERNEL OF THIS CONUNDRUM:

22. The rival submissions thus bring the controversy into sharp focus. **Is debit freezing of a bank account, during the course of investigation, a "seizure" falling within Section 106 of the BNSS, requiring only forthwith reporting to the jurisdictional Magistrate; or does the advent of Section 107 of the BNSS alter the legal landscape and render such freezing an "attachment" which must travel through the judicial route prescribed therein?** The distinction is not one of mere nomenclature. It determines the very source of power, the procedure that must precede its exercise and, consequently, the legality of the freezing orders themselves.

23. The answer cannot be found by reading Sections 106 and 107 of the BNSS in isolated silos. It becomes necessary to trace the jurisprudential journey from **Section 102 of the Cr.P.C.—the statutory progenitor of Section 106 of the BNSS—to the introduction of Section 107 of the BNSS as a new legislative dispensation**, and thereafter examine whether the latter provision has carved out from the traditional domain of police seizure a

distinct species of property, namely, property alleged to constitute proceeds of crime, and subjected its attachment to judicial supervision.

24. It is, therefore, necessary to traverse the precedential path: first, the interpretation placed upon Section 102 of the Cr.P.C.; next, the legislative genesis and interplay of Sections 106 and 107 of the BNSS; and finally, the exposition of these provisions by the Apex Court and the different High Courts. **It is through this statutory and precedential prism that the dividing line between "seizure" and "attachment", and the place of a debit freeze within that divide, must be discerned.**

***INTERPRETATION OF SECTION 102 OF THE CR.P.C., WHICH WOULD BE SECTION 106 OF THE BNSS*:**

THE APEX COURT:

25. Section 102 of the Cr.P.C. is not a provision that has remained in the realm of legislative text bereft of judicial exposition. It has, on several occasions, fallen for interpretation

before the Apex Court, particularly on the amplitude of the expression **"any property"**, the power of the Police to seize such property during investigation, and whether a bank account—and the monies lying therein—would fall within the sweep of the provision. The contours of the power, its procedural safeguards and the obligation of reporting the seizure to the jurisdictional Magistrate have all received authoritative exposition at the hands of the Apex Court. It, therefore, becomes apposite to notice those pronouncements, for they constitute the jurisprudential foundation upon which the corresponding provisions of the BNSS must now be understood.

25.1. The Apex Court in the case of **STATE OF MAHARASHTRA v. TAPAS D. NEOGY**[1] holds as follows:

"…. …. ….

> **6. A plain reading of sub-section (1) of Section 102 indicates that the police officer has the power to seize any property which may be found under circumstances creating suspicion of the commission of any offence. The legislature having used the expression "any property" and "any offence" have made the applicability of the provisions wide enough to cover offences created under any Act. But the two preconditions for applicability of**

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[1] **(1999) 7 SCC 685**

Section 102(1) are that it must be "property" and secondly, in respect of the said property there must have been suspicion of commission of any offence. In this view of the matter the two further questions that arise for consideration are whether the bank account of an accused or of his relation can be said to be "property" within the meaning of sub-section (1) of Section 102 CrPC and secondly, whether circumstances exist, creating suspicion of commission of any offence in relation to the same. Different High Courts in the country have taken divergent views in this regard. In the case of *Swaran Sabharwal* v. *Commr. of Police* [1988 Cri LJ 241 (Del) (DB)] a Division Bench of the Delhi High Court examined the question whether a bank account can be held to be "property" within the meaning of Section 102 CrPC. In the said case, proceeds realised by sale of official secrets were deposited by the accused in his wife's account. The Court in that case came to hold that it is not quite sure whether monies deposited in a bank account can be seized by means of a prohibitory order under the provisions of Section 102 but even assuming that a bank account is a "property" within the meaning of Section 102 of the Code of Criminal Procedure, the further consideration must be satisfied namely that the property has been found under circumstances which create the suspicion of the commission of an offence. But in that case it is not the discovery of the property that has created suspicion of commission of an offence but on the other hand the discovery of the bank account is a sequel to the discovery of commission of offence inasmuch as the police suspected that some of the proceeds realised by the sale of the official secrets have been passed on to the bank account of the wife of the accused. Therefore, the Court was of the opinion that the provisions of Section 102 cannot be invoked. In the case of *Purbanchal Road Service* v. *State* [1991 Cri LJ 2798 (Gau)] a learned Single Judge of the Gauhati High Court examined the provisions of Section 102 of the Criminal Procedure Code and the validity of an order by a police officer, prohibiting the Bank from paying amount to the accused from his account. The learned Judge came to the conclusion that the word "seize" used in Section 102 CrPC means actual taking possession in pursuance of a legal process and, therefore, in exercise of the said power, a bank cannot be prohibited not to pay any amount out of the account of the accused to the accused nor can the accused be prohibited from taking away any property from the locker, as such an order would not be a "seizure" within the meaning of Section 102 of the Criminal Procedure Code. The learned Single Judge agreed with the view taken by the Allahabad High Court in the case of *Textile Traders Syndicate Ltd.* v. *State of U.P.* [AIR 1960 All 405 : 1960 Cri LJ 871] In the Allahabad case on which the Gauhati High Court relied upon (*Textile Traders* [AIR 1960 All 405 : 1960 Cri LJ 871]), what was decided by the Court is, once money passes on from the accused to some other person or to the bank, money itself becomes unidentifiable and, therefore, there cannot be any question of seizure of the same by the police officer.

7. In the case of *Malnad Construction Co.* v. *State of Karnataka* [1994 Cri LJ 645 (Kant)] a learned Single Judge of the Karnataka High Court examined the provisions of Section 102 of the Criminal Procedure Code and relying upon the *Gauhati High Court decision* [1991 Cri LJ 2798 (Gau)] referred to *supra*, came to hold that the "seizure" in Section 102 would mean taking actual physical possession of the property and such a prohibitory order to the banker of the accused not to operate the account is not contemplated under the Code and consequently, the police has no power to issue such order. Thus the High Courts of Karnataka, Allahabad, Gauhati and Delhi have taken the view that the provisions of Section 102 of the Criminal Procedure Code cannot be invoked by the police officer in course of investigation to issue any prohibitory order to the banker or the accused from operating the bank account.

8. In *P.K. Parmar* v. *Union of India* [1992 Cri LJ 2499 (Del)] a learned Single Judge of the Delhi High Court considered the power of the police officer under Section 102 of the Criminal Procedure Code, in connection with the fraudulent acquisition of properties and opening of fictitious bank accounts and withdrawal of huge amounts as subsidy from the Government by producing bogus documents by the accused. The learned Judge took note of the earlier decision of the Delhi High Court in *Swaran Sabharwal* v. *Commr. of Police* [1988 Cri LJ 241 (Del) (DB)] and analysed the provisions of Section 102 of the Criminal Procedure Code and the facts of the case were as under: It was revealed that during investigation the prosecution came to know that without actually manufacturing phosphate and fertilisers, the accused withdrew as much as Rs 3.39 crores as subsidy from the Government of India by producing bogus documents. The Court ultimately came to the conclusion that the recovery of assets in the Bank links prima facie with the commission of various offences with which they had been charged by CBI and, therefore, the police officer could issue directions to various banks/financial institutions freezing the accounts of the accused. The learned Judge in the aforesaid case has really considered the amount of money which the accused is alleged to have swindled by producing bogus documents which prompted him to hold that the power under Section 102 CrPC can be exercised.

9. In *Bharath Overseas Bank* v. *Minu Publication* [1988 MLW (Cri) 106] a learned Single Judge of the Madras High Court considered the same question and came to the conclusion that the expression "property" would include the money in the bank account of the accused and there cannot be any fetter on the powers of the police officer in issuing prohibitory orders from operating the bank account of the accused when the police officer reaches the conclusion that the amount in the Bank is the outcome of commission of offence by the accused. The Court considered the fact as to how in modern days, commission of white-collar crimes and bank frauds are very much on the increase and banking facilities have been extended to the remotest rural areas and, therefore the expression "property" may not be interpreted in a manner so as to exclude the money in a bank which in turn would have the effect of placing legal hurdles, in the process of investigation into the crimes. According to the learned Judge, such literal interpretation of the expression "property" could not have been the intent of the framers of the Criminal Procedure Code. In para 11 of the said judgment, the learned Judge referred to the object behind investing the police with powers of seizure. It will be appropriate to extract the same in extenso:

> "It would now be useful to refer to the object behind investing the police with powers of seizure. Seizure and production in court of any property, including those regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence or any other property will have a twofold effect. Production of the above property may be necessary as evidence of the

> commission of the crime. Seizure may also have to be necessary, in order to preserve the property, for the purpose of enabling the court to pass suitable orders under Section 452 of the Criminal Procedure Code at the conclusion of the trial. This order would include destruction of the property, confiscation of the property or delivery of the property to any person claiming to be entitled to possession thereto. It cannot be contended that the concept of restitution of property to the victim of a crime, is totally alien to the Criminal Procedure Code. No doubt, the primary object of prosecution is punitive. However, Criminal Procedure Code does contain several provisions, which seek to reimburse or compensate victims of crime, or bring about restoration of property or its restitution. As Section 452 CrPC itself indicates, one of the modes of disposing of property at the conclusion of the trial, is ordering their return to the person entitled to possession thereto. Even interim custody of property under Sections 451 and 457 CrPC recognises the rights of the person entitled to the possession of the properties. An innocent purchaser for value is sought to be reimbursed by Section 453 CrPC. Restoration of immovable property under certain circumstances, is dealt with under Section 456 CrPC. Even, monetary compensation to victims of crime or any bona fide purchaser of property, is provided for under Section 357 CrPC, wherein when a court while convicting the accused imposes fine, the whole or any part of the fine, if recovered, may be ordered to be paid as compensation to any person, for any loss or injury, caused by the offence or to any bona fide purchaser of any property, after the property is restored to the possession of the person entitled thereto. This twofold object of investing the police with the powers of seizure, have to be borne in mind, while settling this legal issue."

10. This judgment of the learned Single Judge of the Madras High Court was followed in a later decision in the case of *Bharat Overseas Bank Ltd.* v. *Prema Ramalingam* [1991 MLW (Cri) 353] wherein the learned Judge agreeing with Padmini Jesudurai, J. in *Bharat Overseas Bank case* [1988 MLW (Cri) 106] came to hold that money in a bank account is "property" within the meaning of Section 102 of the Criminal Procedure Code, which could be seized by a prohibiting order. In the aforesaid case, the learned Judge has also noticed the fact that the judgment of Padmini Jesudurai, J. in *Bharat Overseas Bank* [1988 MLW (Cri) 106] was upheld by the Division Bench subsequently.

11. In the case of *Gurcharan Singh (Dr)* v. *State of Punjab* [(1978) 80 Punj LR 514 (DB)] a Division Bench of the Punjab & Haryana High Court differing with the view taken by the Allahabad High Court in *Textile Traders* [AIR 1960 All 405 : 1960 Cri LJ 871] came to hold that the bank account would be "property" and as such would be capable of being seized under Section 102 of the Code of Criminal Procedure.

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."

25.2. The Apex Court later, in the case of **TEESTA ATUL SETALVAD v. STATE OF GUJARAT**[2] elaborately considers and interprets Section 102 of the Cr.P.C., as under:

"…. …. ….

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

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[2] **(2018) 2 SCC 372**

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.**

21. In *Jayendra Saraswathy Swamigal* [*Jayendra Saraswathy Swamigal (2)* v. *State of T.N.*, (2005) 8 SCC 771 : (2006) 1 SCC (Civ) 1] , the Court while considering a transfer petition under Section 406 of the Code, seeking transfer of the case pending before the Principal Sessions Court, Chenglepet, to any other State outside the State of Tamil Nadu, adverted to the circumstance of a motivated order passed under Section 102 of the Code for freezing of 183 bank accounts of the Mutt on the ground that the head of the Mutt was involved in a murder case. In that context, it observed that the power vested under Section 102 of the Code cannot be stretched to irrelevant matters, to extremes and to a breaking point. The power must be exercised cautiously, failing which, the discretion exercised by the authority would be tainted with arbitrariness. In para 23, the Court observed thus: (SCC p. 791)

> "*23.* … Again, the action of the State in directing the banks to freeze all the 183 accounts of the Mutt in the purported exercise of the power conferred under Section 102 CrPC, which had affected the entire activities of the Mutt and other associated trusts and endowments only on the ground that the petitioner, who

> is the head of the Mutt, has been charge-sheeted for entering into a conspiracy to murder Sankararaman, leads to an inference that the State machinery is not only interested in securing conviction of the petitioner and the other co-accused but also to bring to a complete halt the entire religious and other activities of the various trusts and endowments and the performance of pooja and other rituals in the temples and religious places in accordance with the custom and traditions and thereby create a fear psychosis in the minds of the people. This may deter anyone from appearing in court and give evidence in defence of the accused."

22. The Court in *Jayendra Saraswathy Swamigal case* [*Jayendra Saraswathy Swamigal (2)* v. *State of T.N.*, (2005) 8 SCC 771: (2006) 1 SCC (Civ) 1] did not lay down as a proposition that it is impermissible to freeze multiple bank accounts, even though circumstances emanating from the nature of transactions effected from the bank accounts concerned and the conduct of the account-holders created suspicion of the commission of an offence. The Court while directing lifting of seizure of bank accounts had noted that the Mutt could not be paralysed by freezing of all its bank accounts in the guise of a direction issued under Section 102 of the Code. Further, the continuation of the seizure of all the bank accounts even after completion of the investigation of the case and filing of charge-sheet was unwarranted.

23. In *M.T. Enrica Lexie* [*M.T. Enrica Lexie* v. *Doramma*, (2012) 6 SCC 760: (2012) 3 SCC (Civ) 1024: (2012) 3 SCC (Cri) 309], the Court noted in para 7 that agencies had completed their respective investigations and vessel was seized in exercise of power under Section 102 of the Code. In para 16, the Court noted the concession given by the counsel for the Government that the vessel was not the object of the crime or the circumstances which came up in the course of investigation that create suspicion of the commission of any offence. In that case, it was alleged that while the fishing boat was sailing through Arabian Sea, indiscriminate firing was opened from the vessel in question, as a result of which two innocent fishermen, who were on board, died. The counsel for the State had also conceded that the vessel was no longer required in connection with the offence in question. Indeed, in para 14, the Court made the following observations: (SCC p. 765)

> **"*14.* The police officer in course of investigation can seize any property under Section 102 if such property is alleged to be stolen or is suspected to be stolen or is the object of the crime under investigation or has direct link with the commission of offence for which the police officer is investigating into. A property not suspected of commission of the offence which is being investigated into by the police officer cannot be seized. Under Section 102 of the Code, the police officer can seize such property which is covered by Section 102(1) and no other."**

These observations are in no way different from the proposition expounded in *Tapas D. Neogy* [*State of Maharashtra* v. *Tapas D. Neogy*, (1999) 7 SCC 685: 1999 SCC (Cri) 1352].

24. Keeping these principles in mind and the material on record, it is noticed that the prosecution has alleged that the two Trusts are run by the private appellants and other accused. They were actively involved in collecting huge funds as donation in the name of providing legal assistance to the 2002 Gujarat Riot Victims. Such donations received by the two Trusts had never reached the victims, the members of the Gulberg Society in respect of which grievance has been made in the subject FIR. Further, substantial discrepancies have been noticed from the bank accounts, copies of audited account statements and balance sheet. The final account did not tally with the accounts, as submitted. The appellants did not offer credible explanation in that regard, much less satisfactory. According to the respondents, the conduct of the appellants of non-cooperation during the investigation strengthens the suspicion of the commission of an offence. They provided incorrect information. It is also a case of non-disclosure and suppression of material facts. These circumstances create suspicion of the commission of offence under investigation. It is alleged by the respondents that the appellants deliberately and intentionally did not disclose that they have already opened new accounts and transferred huge sums of money after knowing that stated bank accounts of the appellants were seized on 21-1-2014 by the investigating agency. The details of the two newly opened accounts were not forthcoming. Further, in the proceedings filed before different courts, incorrect plea has been taken by the appellants, suggestive of the fact that their accounts were not compliant and duly scrutinised by the competent authority.

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, the investigating officer after issuing instructions to seize the stated bank accounts of the appellants submitted report to the Magistrate concerned and thus complied with the requirement of sub-section (3).

26. Although both sides have adverted to statement of accounts and vouchers to buttress their respective submissions, we do not deem it necessary nor think it appropriate to analyse the same while considering the matter on hand which emanates from an application preferred by the appellants to defreeze the stated bank accounts pending investigation of the case. Indisputably, the investigation is still in progress. The appellants will have to explain their position to the investigating agency and after investigation is complete, the matter can proceed further depending on the material gathered during the investigation. The suspicion entertained by the investigating agency as to how the appellants appropriated huge funds, which in fact were meant to be disbursed to the unfortunate victims of 2002 riots will have to be explained by the appellants. Further, once the investigation is complete and police report is submitted to the court concerned, it would be open to the appellants to apply for defreezing of the bank accounts and persuade the court concerned that the said bank accounts are no more necessary for the purpose of investigation, as provided in sub-section (3) of Section 102 of the Code. It will be open to the court concerned to consider that

> **request in accordance with law after hearing the investigating agency, including to impose conditions as may be warranted in the fact situation of the case."**

What is discernible from the elucidation of law by the Apex Court is that Bank accounts constitute property within the meaning Section 102 of the Cr.P.C., and may be frozen where there exists a reasonable suspicion linking the funds to the commission of an offence. **Such seizure is a preservatory measure intended to secure suspected tainted assets during the investigation and ordinarily warrants no judicial interference during the pendency of investigation.**

26. In the teeth of the authoritative exposition of Section 102 of the Cr.P.C. by the Apex Court, the inquiry cannot rest there. With the advent of the BNSS and the introduction of a distinct statutory mechanism under Section 107 of the BNSS, it becomes necessary to notice how the different High Courts, as also this Court, have understood, interpreted and delineated the contours of the said provision, particularly in its interplay with Section 106 of the BNSS. **The precedential journey must, therefore, move from the settled jurisprudence under Section 102 of the Cr.P.C. to the**

emerging jurisprudence under Sections 106 and 107 of the BNSS. Such an examination becomes imperative to discern whether Section 107 of the BNSS has altered the erstwhile legal regime governing seizure and debit freezing of bank accounts, or whether the traditional power of seizure, now housed in Section 106 of the BNSS, continues to operate in its own field, untouched by the newly introduced mechanism of attachment, forfeiture and restoration under Section 107 of the BNSS. The judgments of the different High Courts and of this Court interpreting Section 107 of the BNSS, therefore, merit consideration.

THE HIGH COURT OF KERALA:

26.1. The first of the judgments rendered was by the High Court of Kerala in **HEADSTAR GLOBAL PRIVATE LIMITED v. STATE OF KERALA**[3]. It is held therein as under:

> "…. …. ….
>
> **10.** It is pertinent to note that all the above decisions were rendered with respect to Section 102 of the Code of Criminal Procedure and the Code did not contain any provision for seizure or attachment of the proceeds of crime, except under

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[3] **2025 SCC OnLine Ker.3546**

Chapter VII-A dealing with reciprocal arrangements with other countries for assistance in attachment and forfeiture of property in a contracting state. This lacuna is cured by retaining Section 102 of the Criminal Procedure Code as Section 106 and including Section 107 in the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short). For ease of reference, the newly introduced Section 107 of BNSS is extracted below;

"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 subsection (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, 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 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."

11. The definition of 'proceeds of crime' as available in Section 111(c) of BNSS reads as follows;

> "(c) "proceeds of crime" means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;"

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 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."

26.2. The afore-quoted judgment in **HEADSTAR GLOBAL PRIVATE LIMITED** was appealed before the Apex Court in SLP No.13433 of 2025 and the SLP is turned down by the order dated 11-09-2025 rendering the following reasoning:

"UPON hearing the counsel the Court made the following

O R D E R

Having heard Mr. Harshad V. Hameed, learned counsel appearing for the State and on the peculiar facts of the case, we are not inclined to exercise our jurisdiction under Article 136 of the Constitution. The special leave petition is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of."

The judgment rendered in **HEADSTAR GLOBAL PRIVATE LIMITED** is followed by every other High Court.

THE CO-ORDINATE BENCH:

26.3. In the case of **M/S MUFIN TECHNOLOGIES PRIVATE LIMITED v. STATE OF KARNATAKA**[4]**,** a coordinate Bench of this Court has held as follows:

"…. …. ….

Finding on Point No.(ii):

29. Section 107 of BNSS, contemplates a structured procedure before effecting seizure or freezing of property, including bank accounts. The provision mandates that such action must be supported by reasons, subject to supervisory

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5 W.P.No.10795 of 2026 and connected case decided on 29-04-2026

control, and ordinarily requires reporting to the jurisdictional Magistrate. The legislative intent is to ensure that such intrusive measures are not exercised arbitrarily and are subject to judicial oversight.

30. In the present case, respondent No.1 has not placed any material before this Court to demonstrate compliance with the mandatory procedural safeguards under Section 107 of BNSS. There is no indication of prior approval from superior officers, nor is there any material to show that the jurisdictional Court was apprised of the action contemporaneously. The impugned communication dated 24.02.2026, directing debit freeze, appears to have been issued unilaterally, without adherence to the statutory discipline mandated under BNSS.

31. The judgments relied upon by the learned Senior Counsel, particularly in **Headstar Global Private Limited vs. State of Kerala** and **Malabar Gold and Diamonds Limited vs. Union of India** (supra), have categorically held that freezing of bank accounts without strict compliance of statutory safeguards is vitiated in law. The said principle squarely applies to the case on hand.

32. Accordingly, this Court holds that there is a clear infraction of Section 107 of BNSS, rendering the impugned action legally unsustainable. Point No.(ii) is answered in the **affirmative**.

… … …

38. A plain reading of the aforesaid communication would indicate that the direction issued by respondent No.1 is confined to the debit freezing of the account of M/s. Muffin Payment Solutions Private Limited, in connection with Crime No.378/2025. Significantly, there is no reference whatsoever to the petitioners herein, namely M/s. Muffin Green Finance Limited or M/s. Muffin Technologies Private Limited, in the said communication. This aspect assumes considerable importance while examining the legality and validity of the impugned action extended to the petitioners' accounts.

39. In such circumstances, the action of freezing the accounts of Muffin Technologies is not only without jurisdiction but is also dehors the very communication relied upon by the

respondents. Such action reflects a clear case of overreach, where coercive measures are extended beyond the scope of the original directive, without any legal sanction or basis.

40. Therefore, this Court has no hesitation in holding that the freezing of accounts of Muffin Technologies is wholly illegal and arbitrary. Point No.(iv) is answered in the **affirmative**.

Finding on Point No.(v):

41. The proceedings in C.C.No.15166/2026 assume considerable significance in adjudicating the present controversy. The jurisdictional Court, by order dated 02.04.2026, has directed defreezing of the account of Muffin Payment Solutions Private Limited, subject to marking of lien over the quantified amount and upon securing undertaking and surety.

42. This order clearly demonstrates that the alleged crime proceeds have already been identified, quantified, and secured under judicial supervision. Once such protection is in place, the continuation of debit freeze or extension of such measure to sister concerns becomes wholly redundant and disproportionate.

43. The purpose of freezing accounts is to prevent dissipation of alleged crime proceeds. When that very purpose stands achieved through judicial intervention, any further action by the Investigating Officer would be excessive and unwarranted. The law does not permit multiplicity of coercive measures when the subject matter is already secured.

44. Therefore, this Court is of the considered view that in light of the order passed in C.C.No.15166/2026, the impugned action cannot be sustained. Point No.(v) is answered in the **affirmative**, holding that continuation of debit freeze is unjustified.

Conclusions:

45. In light of the detailed findings recorded on all the points for consideration, this Court holds that the impugned action of respondent No.1 is arbitrary, contrary to statutory mandate, and violative of settled legal principles. The

petitioners, who are not even arrayed as accused, cannot be subjected to such coercive measures in the absence of any incriminating material and in the face of judicial orders already securing the alleged amounts.

46. In view of the foregoing discussion, this Court is of the considered opinion that the impugned action of respondent No.1 in directing debit freeze of the bank accounts of the petitioners is arbitrary, disproportionate, and in clear violation of the statutory mandate as well as the law laid down by various High Courts. The points for consideration are accordingly answered in favour of the petitioners."

THE HIGH COURT OF ANDHRA PRADESH:

26.4. The High Court of Andhra Pradesh in two of its judgments following the judgment rendered by the High Court of Kerala in the case of **HEADSTAR GLOBAL PRIVATE LIMITED** *supra,* interprets the statutory scheme of Section 107 of the BNSS.

26.4.1. In the case of **BLUE SEA VENTURES LLP v. THE STATE OF ANDHRA PRADESH**[5]**,** it is held as follows:

"…. …. ….

15. Therefore, the High Court of Kerala in Headstar Global (P) Ltd. supra, eloquently elucidated that Section 107 of 'the BNSS' vests the learned Jurisdictional Magistrate with the exclusive and plenary authority to order attachment of property believed to constitute the proceeds of crime, the police officer being mandated to approach the Magistrate for such attachment, which may be ordered after affording an

[5]W.P.No. 5034 of 2026

opportunity of hearing to all concerned or, in exigent circumstances where issuance of notice would defeat the very object of attachment, by way of an interim order; and upon confirmation that the property indeed represents proceeds of crime, the Magistrate may further direct its distribution through the District Magistrate to those aggrieved. The Court further drew a sharp doctrinal distinction between Section 106, which contemplates mere seizure by the Investigating Officer followed by an ex post facto report to the Magistrate, and Section 107, which governs attachment, forfeiture, and restoration, and which can be invoked only upon a reasoned order of the Magistrate. The rationale for this demarcation, as underscored by the Court, lies in the differing purposes of the provisions: seizure under Section 106 serves primarily to secure evidence necessary for investigation, whereas attachment under Section 107 serves the higher statutory purpose of securing the alleged proceeds of crime by preventing their dissipation and ensuring their availability for forfeiture, restitution, and victim compensation, thus reinforcing the indispensable judicial oversight contemplated by the statutory scheme.

16. The High Court of Delhi in **Malabar Gold & Diamond Ltd. v. Union of India (2026) SCC OnLine Del 297**, at paragraph Nos.18 & 19 held as under:

> "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 debitfreeze 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."

…. …. ….

26. The Respondent Police, by issuing unilateral notices directing debit freeze without approaching the learned Magistrate and without obtaining judicial sanction, have arrogated to themselves a power that the Legislature has, in its wisdom, vested exclusively in the judiciary. This usurpation of judicial power by an executive authority is constitutionally impermissible and renders the impugned notices void ab initio. The law on this point has been extensively and authoritatively laid down by the High Court of Kerala in **Headstar Global (P) Ltd**. supra wherein it was categorically held that debit freeze of bank accounts amounts to attachment and not mere seizure, and that such action without the sanction of a learned Magistrate is without jurisdiction and liable to be quashed.

27. More importantly, this Court in **M/S.Mineral On Ground v. State of A.P** (W.P.No.3870/2026 dated 31.03.2026), unequivocally held that an Investigating Officer is not vested with any unilateral or unfettered authority to direct the freezing of bank accounts in the absence of judicial sanction, and that any such coercive measure, particularly one having the effect of extinguishing commercial operations and paralysing the financial substratum of the affected party, must strictly conform to the statutory architecture embodied in Sections 94 and 107 of 'the BNSS'. This Court has held that while Section 94 of 'the BNSS' facilitates only the procurement of documents during investigation, the power to effect attachment or freezing of accounts inheres exclusively in the learned Jurisdictional Magistrate under Section 107 of 'the BNSS', and any deviation from this mandatory procedure renders the action wholly without jurisdiction. It has further been held that the executive cannot resort to blanket or disproportionate freezing orders without identifying specific tainted amounts or establishing a demonstrable nexus between the alleged proceeds of crime and the accounts sought to be immobilised. This Court have

additionally underscored that such actions, when taken without notice, without reasons, and without minimal compliance with principles of natural justice, amount to arbitrary State action violative of Articles 14, 19(1)(g), and 21 of the Constitution of India, and that the writ jurisdiction under Article 226 must be exercised to nullify such ultra vires and coercive executive measures.

…. …. ….

30. In the result, for all the foregoing reasons, this Court is of the considered opinion that the impugned notice dated 21.11.2025 issued by the Respondent No.4 under Section 106 of 'the BNSS' and the notice dated 12.11.2025 issued by the Respondent No.5 under Section 94 of 'the BNSS', directing debit freeze of the Petitioners' bank accounts, are manifestly without jurisdiction, arbitrary, and ex-facie illegal, being violative of Sections 94, 106, and 107 of 'the BNSS', Article 14, and Article 21 of the Constitution of India, and the binding judicial precedents of the Hon'ble Supreme Court."

26.4.2. In the case of **M/s MINERAL ON GROUND v. THE STATE OF ANDHRA PRADESH**[6]**,** it is held as follows:

"…. …. ….

18. Therefore, the High Court of Kerala in **Headstar Global (P) Ltd.** *supra*, eloquently elucidated that Section 107 of 'the BNSS' vests the learned Jurisdictional Magistrate with the exclusive and plenary authority to order attachment of property believed to constitute the proceeds of crime, the police officer being mandated to approach the Magistrate for such attachment, which may be ordered after affording an opportunity of hearing to all concerned or, in exigent circumstances where issuance of notice would defeat the very object of attachment, by way of an interim order; and upon confirmation that the property indeed represents proceeds of crime, the Magistrate may further direct its distribution through the District Magistrate to those aggrieved. The Court further

[6] **W.P.No.3870 of 2026**

drew a sharp doctrinal distinction between Section 106, which contemplates mere seizure by the Investigating Officer followed by an *ex post facto* report to the Magistrate, and Section 107, which governs attachment, forfeiture, and restoration, and which can be invoked only upon a reasoned order of the Magistrate. The rationale for this demarcation, as underscored by the Court, lies in the differing purposes of the provisions: seizure under Section 106 serves primarily to secure evidence necessary for investigation, whereas attachment under Section 107 serves the higher statutory purpose of securing the alleged proceeds of crime by preventing their dissipation and ensuring their availability for forfeiture, restitution, and victim compensation, thus reinforcing the indispensable judicial oversight contemplated by the statutory scheme.

…. …. ….

20. Ergo, the High Court of Delhi in **Malabar Gold & Diamond Ltd.** *supra*, unequivocally reaffirmed that Section 106 of 'the BNSS' confers upon the police only a limited power of seizure for evidentiary purposes and does not, in any manner, authorise the attachment or debit- freezing of bank accounts, which are intrusive measures permissible solely under Section 107 of 'the BNSS' and only upon the issuance of a reasoned order by a competent Magistrate after strict adherence to the procedural safeguards contemplated by law. The Court further underscored that any blanket or disproportionate freezing of bank accounts, particularly in circumstances where the account holder is neither an accused nor even a suspect in the underlying criminal investigation, amounts to manifest arbitrariness and constitutes a direct infraction of the fundamental guarantees under Articles 19(1)(g) and 21 of the Constitution of India, which safeguard the right to livelihood and the freedom to carry on trade or business. Such indiscriminate and unbridled debit- freezing, bereft of any foundational finding of complicity, inevitably paralyses the day- to- day business operations of an otherwise innocent entity, erodes commercial goodwill, and inflicts severe financial prejudice, thereby subjecting a non- complicit account holder to consequences that are punitive in effect though wholly unjustified in law.

…. …. ….

23. At the threshold, it is necessary to appreciate the constitutional foundation upon which the challenge rests. Article 19(1)(g) of the Constitution of India guarantees to every citizen the fundamental right to practise any profession or to carry on any occupation, trade, or business. This right, though not absolute, can be curtailed only by a law imposing reasonable restrictions in the interest of the general public, as envisaged under Article 19(6) of the Constitution of India. The right to carry on business necessarily includes the right to access the financial instrumentalities essential to that business, including bank accounts through which commercial transactions are conducted. A blanket freezing of such accounts, without legal authority and without judicial oversight, strikes at the very root of this constitutionally protected right. The impugned order, having been passed without any statutory sanction traceable to a provision that authorises such unilateral executive action, constitutes a direct and impermissible infringement of the Petitioners' fundamental right under Article 19(1)(g) of the Constitution of India. The argument of Respondent No.3 that such freezing constitutes a mere regulatory measure falls wholly wide of the mark, for the practical consequence of the impugned order has been to render the Petitioners' business operations entirely non-functional, thereby transforming a purported regulation into a de-facto extinction of their commercial existence.

24. This Court must next advert to the statutory scheme under 'the BNSS' to appreciate the precise jurisdictional foundation, if any, upon which the impugned order purports to rest. Section 94 of 'the BNSS' vests in a police officer the power to search for and seize certain documents and property during the course of an investigation. However, the existence of a general power of search and seizure under Section 94 of 'the BNSS' cannot, by any principle of statutory interpretation, be construed as conferring upon an Investigating Officer the unbridled authority to direct financial institutions to freeze the accounts of citizens without judicial intervention. The BNSS, recognising the grave consequences that attend the attachment of property alleged to constitute proceeds of crime, has enacted a distinct and comprehensive procedure under Section 107 of 'the BNSS'. Section 107 of 'the BNSS' mandates that whenever an Investigating Officer forms a belief, upon material in his possession, that any property constitutes proceeds of a

scheduled offence, he must apply to the learned jurisdictional Magistrate, who is then required to issue notice to the affected persons and afford them an opportunity of hearing before passing any order of attachment. The legislative intent underlying Section 107 of 'the BNSS' is unambiguous: it is the learned Magistrate, and not the Investigating Officer, who is entrusted with the power of attachment, and the interposition of judicial authority is a mandatory safeguard and not a mere procedural formality. The submission of the learned Assistant Government Pleader that Section 94 of 'the BNSS' independently empowers the police to freeze accounts is, with respect, misconceived and contrary to the plain text and legislative purpose of the statute.

25. It is a well-established canon of statutory interpretation, affirmed by the Hon'ble Supreme Court of India in a long line of decisions, that two provisions of the same enactment must be read harmoniously so as to give full effect to the legislative intent and to avoid any surplusage or redundancy. Applying this principle, Sections 94 and 107 of 'the BNSS' must be read conjunctively. Section 94 of 'the BNSS', which confers general investigative powers, cannot be permitted to swallow up Section 107 of 'the BNSS', which specifically addresses the attachment of property and prescribes a procedure replete with judicial safeguards. To hold otherwise would be to render the entire scheme of Section 107 of 'the BNSS', including its requirements of judicial oversight, notice, and hearing, otiose and nugatory, which no Court of law can permit. The *maxim generalia specialibus non derogant* is instructive in this context: where a general provision and a special provision operate in the same field, the special provision must prevail. Section 107 of 'the BNSS', being the special provision governing attachment of property alleged to be proceeds of crime, must govern the field, and the Investigating Officer's action in bypassing it cannot be sustained. The impugned order is therefore ultra vires 'the BNSS' and stands vitiated at its very foundation.

26. Independently of the statutory infirmity discussed above, the impugned order is also constitutionally unsustainable for its flagrant violation of the principles of natural justice, which constitute an integral component of the rule of law and are embedded in Article 14 of the Constitution of India. The twin

pillars of natural justice, *audi alteram partem* (hear the other side) and *nemo judex in causa sua* (no person shall be a judge in his own cause), are not merely procedural niceties but substantive safeguards that protect citizens from arbitrary state action. The impugned order was passed without issuance of any notice to the Petitioners, without furnishing them an opportunity to place their case before the authority, and without any consideration of the representations that the Petitioners had already submitted to Respondent No.3 and Respondent No.4 Bank. The Petitioners were confronted with a fait accompli: their accounts were frozen without warning, without hearing, and without any indication of the material upon which Respondent No.3 had acted. This Court is of the considered opinion that before so drastic and crippling a measure as the freezing of bank accounts is resorted to, elementary fairness demands that the affected party be placed on notice and afforded a reasonable opportunity to respond. The omission to do so renders the impugned order a nullity in the eye of law.

27. Proceeding further, this Court finds the impugned order to be afflicted with a grave vice of non-application of mind, which independently renders it liable to be struck down. It is trite law, affirmed by constitutional Courts across the country, that every order affecting the rights of citizens must be supported by reasons, and the reasons must disclose a rational nexus between the material before the authority and the conclusion drawn therefrom. The impugned order does no more than recite a bare and bald conclusion that the accounts in question are "involved in the offence," without identifying the specific transactions alleged to be tainted, without quantifying the amount alleged to have been misappropriated, and without establishing any causal connection between the accounts sought to be frozen and the alleged criminal activity. An order of such a sweeping and drastic nature, cloaked in the language of statutory authority, cannot be permitted to stand when it is bereft of any reasoned foundation. Recording of reasons is not an empty formality, it is the guarantee that the power has been exercised judiciously and not capriciously. The mechanical manner in which the impugned order was passed reveals an utter abdication of the duty to apply mind, and such an order cannot survive constitutional scrutiny.

28. This Court is equally persuaded that the principle of proportionality, now firmly entrenched in Indian constitutional jurisprudence as a component of Articles 14 and 19 of the Constitution of India, has been egregiously violated in the present case. The doctrine of proportionality, drawn from constitutional law and affirmed by the Hon'ble Supreme Court in **Modern Dental College & Research Centre v. State of M.P** (2016) 7 SCC 353 and **K.S. Puttaswamy (Aadhaar-5J.) v. Union of India** (2019) 1 SCC 1, postulates that even where state action pursues a legitimate aim, the means employed must be proportionate to and commensurate with the object sought to be achieved, and must impair the fundamental rights of citizens to the minimum extent necessary. The blanket and indiscriminate freezing of all bank accounts of the Petitioners, without identifying specific amounts or transactions alleged to be proceeds of crime, without restricting the freeze to the extent necessary to protect the alleged proceeds, and without judicial oversight, is a measure grossly disproportionate to the investigative purpose sought to be served. The consequence of this disproportionate action has been devastating, loan accounts have been classified as Non-Performing Assets, statutory obligations have been rendered impossible of discharge, and the salaries of employees stand unpaid. The investigation could well have been secured by far less invasive means, such as a targeted freeze limited to the amount in dispute or a partial restriction subject to learned Magisterial supervision. The failure to adopt such calibrated measures renders the impugned order doubly unsustainable.

29. This Court is also constrained to observe that the circumstances of the present case disclose a disconcerting pattern of misuse of the criminal process to resolve what is, in its essential character, a corporate and civil dispute. It is a well-settled principle, reiterated by the Hon’ble Supreme Court in numerous pronouncements, that criminal law cannot be employed as a coercive instrument to settle disputes that are civil in nature or as a weapon of oppression against business adversaries. The foundational premise of the FIR registered as Crime No.136 of 2025 is the alleged breach of fiduciary duty by the Petitioners in their capacity as directors of M/s. Murali Krishna Agro Farms & Estates Pvt. Ltd. However, this very substratum is demolished by the finding of the Hon’ble National Company Law Tribunal, which categorically held that the de-

facto complainant is not a director of the said company. This finding strikes at the root of the allegation of criminal breach of trust, for without the establishment of a relationship of fiduciary entrustment, the penal provisions invoked in the FIR cannot be attracted. Furthermore, the requirement of joint signatures for transactions in the accounts of the company renders the allegation of unilateral diversion of funds demonstrably improbable. This Court reiterates the long-standing judicial principle that where the allegations in a criminal complaint, taken at their face value, do not disclose the ingredients of the offence alleged, and where the primary motivation appears to be the coercion of a private party rather than the vindication of public law, it is the duty of constitutional courts to intervene to prevent the abuse of criminal process and to protect citizens from vexatious prosecution and coercive executive action.

30. A fortiori, this Court in **Blue Sea Ventures LLP v. State of A.P** W.P.No.5034 of 2026 dated 31.03.2026 , while adjudicating a substantially similar challenge to unilateral debit-freezing directions issued under Sections 94 and 106 of 'the BNSS', emphatically reiterated that the power to immobilise bank accounts, being in the nature of attachment and not mere seizure, falls exclusively within the domain of judicial authority under Section 107 of 'the BNSS', and cannot be exercised by the police through executive fiat. This Court, in the said judgment, underscored that any attempt by the Investigating Officer to bypass the mandatory requirement of obtaining a reasoned order from the learned Jurisdictional Magistrate constitutes a patent transgression of statutory limits, a colourable exercise of power, and an infringement of the fundamental guarantees under Articles 14, 19(1)(g), and 21 of the Constitution of India. The Court further held that such executive overreach, particularly when it results in the paralysing of business operations and extinguishment of livelihood, must invite the Court's corrective intervention under Article 226, lest the constitutional safeguards against arbitrary State action be rendered illusory. The ratio in **Blue Sea Ventures LLP** *supra* thus fortifies the legal principle that unilateral debit- freezing, absent judicial oversight, is ultra vires, unconstitutional, and liable to be interdicted.

31. Having regard to the totality of the legal infirmities identified above, this Court holds that the impugned order dated

12.09.2025 issued by Respondent No.3 under Section 94 of 'the BNSS' is illegal, arbitrary, and unconstitutional. It is illegal because it has been passed in contravention of the mandatory procedure prescribed under Section 107 of 'the BNSS', which requires the intervention of the learned Jurisdictional Magistrate before any order of attachment of property alleged to be proceeds of crime is made. It is arbitrary because it has been issued without any reasoned basis, without establishing a nexus between the accounts and the alleged offence, and without any consideration of the Petitioners' representations, in direct violation of Article 14 of the Constitution of India. It is unconstitutional because it inflicts a disproportionate and unjustifiable restriction upon the Petitioners' fundamental right to carry on business under Article 19(1)(g) of the Constitution of India, a restriction that is not saved by Article 19(6) of the Constitution of India for want of the requisite legal authority and proportionality.

32. This Court reaffirms the inviolable constitutional principle that the power of the State, however broad its investigative mandate, must be exercised within the boundaries prescribed by law, subject to judicial oversight, and in conformity with the fundamental rights of citizens. The police machinery, invested with coercive authority in the service of public order and criminal justice, cannot be permitted to operate as an instrument of private vengeance or commercial warfare. Every citizen, regardless of the allegations levelled against them, is entitled to the protection of law, the presumption of innocence, and the right to be heard before being deprived of access to the fruits of their lawful labour. These are not merely procedural guarantees, they are the constitutional bedrock upon which the rule of law rests. The impugned order, having been passed in manifest disregard of these fundamental precepts, cannot be sustained. The Petitioners' right to carry on their lawful business activities stands fully restored.

33. Accordingly, the impugned order is quashed. Respondent No.4 Bank is directed to forthwith de-freeze all bank accounts of the Petitioners, and to restore full operational access thereto without any further delay.

34. In conclusion, the Writ Petition is allowed. It is, however, made clear that this order shall not preclude

> Respondent No.3 from taking recourse to the procedure prescribed under Section 107 of 'the BNSS', should he have adequate material to demonstrate that the accounts or any portion thereof contain proceeds of crime, in which event the learned Jurisdictional Magistrate shall adjudicate the matter in accordance with law after affording due notice and hearing to all affected parties. There shall be no order as to costs."

THE HIGH COURT OF BOMBAY:

26.5. The High Court of Bombay also in two of its judgments, considers the statutory scheme of Sections 106 and 107 of the BNSS while following the judgment of the High Court of Kerala in **HEADSTAR GLOBAL PRIVATE LIMITED** *supra.*

26.5.1. In the case of **KARTIK YOGESHWAR CHATUR v. UNION OF INDIA**[7]**,** the High Court of Bombay has held as follows:

"…. …. ….

> **10.** Thus, the Kerala High Court, in clear terms, held that a police officer investigating a crime has to approach jurisdictional Magistrate under Section 107 of the BNSS to seek attachment of any property believed to be derived directly or indirectly from a criminal activity or commission of an offence. Subsequent course will have to be adopted in terms of order passed by the Magistrate. The Court further clarified 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 *ex post facto* report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon order of the Magistrate. The logic behind this distinction being that the

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[7] 2025 SCC OnLine Bom.4778 (DB)

purpose of seizure is more to secure evidence during investigation, whereas, attachment is intended to secure proceeds of crime by preventing its disposal and, thus, ensuring its availability for legal procedure such as forfeiture and distribution to the victim/s.

11. Thus, the judgment makes it clear that debit freezing account is not permissible under Section 106 of the BNSS.

12. The judgment of Kerala High Court was challenged before the Supreme Court in SLP being SLP (Cri.) No. 13433/2025, where the Supreme Court declined to interfere with the said judgment.

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 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."

26.5.2. In the case of **SAKSHI FOOD SUPPLIERS v. STATE OF MAHARASHTRA**[8]**,** the High Court of Bombay has held as follows:

"…. …. ….

9. It would be necessary to consider the provisions of Section 107 of the BNSS. On a bare perusal of Section 107 of the BNSS it can be said that Section 107 is a Code in itself. Entire procedure has been laid down in the said section for attachment of the property wherein even debit freezing of the bank account is also permissible. It would be useful to refer to the judgment of this Court in the case of ***Kartik Yogeshwar Chatur*** (supra), wherein in para 10, the Division Bench has observed as under:

"10. Thus, the Kerala High Court, in clear terms, held that a police officer investigating a crime has to approach jurisdictional Magistrate under Section 107 of the BNSS to seek attachment of any property believed to be derived directly or indirectly from a criminal activity or commission of an offence. Subsequent course will have to be adopted in terms of order passed by the

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[8] **2026 SCC OnLine Bom 3380**

> *Magistrate. The Court further clarified 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 ex post facto report submitted to the Magistrate. On the other hand, attachment under Section 107 can be effected only upon order of the Magistrate. The logic behind this distinction being that the purpose of seizure is more to secure evidence during investigation, whereas, attachment is intended to secure proceeds of crime by preventing its disposal and, thus, ensuring its availability for legal procedure such as forfeiture and distribution to the victim/s*."

10. It is further to be noted that this Court in ***Kartik Yogeshwar Chatur*** (supra) has relied on the judgment of the Kerala High Court. While passing the order, it is informed to this Court that the judgment of Kerala High Court was challenged before the Supreme Court and the Supreme Court has declined to interfere with the said judgment, which means that the judgment of the Kerala High Court has been confirmed by the Supreme Court, wherein it is held that it is only under Section 107 of the BNSS the order of debit freezing the bank account can be passed and not under Section 106 of the BNSS.

11. Considering the above exposition of law laid down by the Himachal Pradesh High Court as well as this Court, I am of the considered opinion that the investigating officer has committed gross error in exercising the powers under Section 94 of the BNSS for debit freezing the bank accounts of the petitioners. Even the learned Magistrate while passing the impugned order has lost sight of the fact that under Section 94 of the BNSS, debit freezing of bank account is not permissible. This settled position of law has been conveniently ignored by the learned Magistrate. The learned Magistrate also committed gross error by relying on Section 106 of the BNSS and holding that under said Section, the investigating officer has power of seizure/freezing the bank accounts.

12. Considering the above facts and circumstances, I am of the considered opinion that the impugned order cannot be sustained in law and it deserves to be quashed and set aside to the extent it rejects the applications (Exhs. 40, 43, 28, 31 and 75) filed by the petitioners."

THE HIGH COURT OF DELHI:

26.6. The High Court of Delhi again interprets Sections 106 and 107 of the BNSS following the judgment of the High Court of Kerala in **HEADSTAR GLOBAL PRIVATE LIMITED** *supra*.

26.6.1. The High Court of Delhi in the case of **MALABAR GOLD AND DIAMOND LIMITED v. UNION OF INDIA**[9]**,** has held as follows:

"….   ….   ….

> **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.*

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[9] **2026 SCC OnLine Del.297**

(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 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 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 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 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*, 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 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, 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 Rs. 11,60,000/- and Rs. 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 Rs. 14,61,857/- and Rs. 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 Rs. 22,00,857/- had been put on hold between 18.03.2025 and 26.03.2025 in one account, and an amount of Rs. 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 Rs. 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 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."

26.6.2. The High Court of Delhi in the case of **CAPTAIN RAKESH WALIA (RETD.) v. UNION OF INDIA**[10]**,** has held as follows:

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[10] 2026 SCC OnLine Del 1064

"….   ….   ….

8. The issue is squarely covered by the decision of this Court in *Malabar Gold and Diamond Limited* v. *Union of India*, 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 BharatiyaNagarik 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 Rs 2,02,345 was initially marked, the subsequent blanket debit freeze of the entire account is 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 afore noted 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 afore noted 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 *This is a digitally signed order. The authenticity of the order can be reverified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 26-1-2026 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 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 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 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.

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 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 2 shall be at liberty to pass fresh direction in accordance with law."

THE HIGH COURT OF MADRAS:

26.7. The High Court of Madras in the case of **VAIDHEHI v. THE DEPUTY SUPERINTENDENT OF POLICE**[11] has held as follows:

"…. …. ….

16. Therefore, this Court is the view that the action of the second respondent in instructing the third respondent in all cases to freeze the Bank accounts by invoking the power under Section 106 of BNSS cannot be sustained. If the respondents are of the view that the proceeds of the crime have to be protected, if ultimately, the Court holds that the petitioner or her husband had ill gotten money, the only remedy available to the respondents is to invoke Section 107 BNSS, 2023 for attachment, forfeiture, etc. In fact, there was no similar provision in the Code of Criminal Procedure, 1973. Prior to BNSS, the Police had to resort to Criminal Law (Amendment) Ordinance, 1944, to seek attachment. However, in view of Section 107 of BNSS, the second respondent is entitled to make an application by following the procedure prescribed under Section 107(1) of BNSS before the Magistrate concerned and seek appropriate orders for attachment, forfeiture or for other such remedies. Therefore, the impugned communication are liable to be set aside.

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[11] W.P.(MD) Nos.500 to 502 of 2025 & connected matter decided on 17.09.2025

> 17. Before parting with the case, this Court also may observe that during the course of investigation in a case registered under Section 304(A) of IPC (Section 106(1) of BNSS), the second respondent had detected certain other offences. These offences have not been committed in the course of the same transaction. This Court is surprised by the procedure adopted by the second respondent in adding those offences as if those have been committed in the course of the same transaction. The two offences relating to cause death due to negligence and the one relating to violation of the condition of permit are totally different. The second respondent may, therefore, do well to ascertain if there is any procedural lapse and proceed in accordance with law."

THE HIGH COURT OF PUNJAB AND HARYANA:

26.8. The High Court of Punjab and Haryana, in two of its judgments interprets Sections 106 and 107 of the BNSS.

26.8.1. The High Court of Punjab and Haryana in the case of **ISHA v. ICICI BANK LIMITED**[12] has held as follows:

"…. …. ….

> **5.** Kerala High Court in *Headstar Global Pvt. Ltd.* v. *State of Kerela*, 2025 SCC OnLine Ker 3546 has held that freezing of bank accounts must be proportionate, reasoned, and supported by material indicating the account holder's involvement in the alleged offence. Bank account under Section 106 of BNSS cannot be attached. The Hon'ble Supreme Court has dismissed SLP being *SLP (Cri.) No. 13433/2025* filed against aforesaid judgment.
>
> **6.** Bombay High Court in *Kartik Yogeshwar Chatur* v. *Union of India*, 2025 SCC OnLine Bom 4778 has held

[12] 2026 SCC OnLine P&H 6030

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.

7. Delhi High Court in *Neelkanth Pharma Logistics (P) Ltd.* v. *Union of India*, 2025 SCC OnLine Del 1055 has 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 emphasized 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. 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.

8. From the perusal of record and arguments of both sides, it is evident that no FIR has been registered against the petitioner. No order of attachment under Section 107 of BNSS has been passed by the Magistrate. Claim of petitioner is genuine and deserves to be allowed. Accordingly, respondent-Bank is directed to de-freeze petitioner's account within one week from today.”

26.8.2. In the case of **SWEETY v. HDFC BANK LIMITED**[13]**,** the High Court of Punjab and Haryana has held as follows:

“…. …. ….

5. Kerala High Court in *Headstar Global Pvt. Ltd.* v. *State of Kerela*, 2025 SCC OnLine Ker 3546 has held that freezing of bank accounts must be proportionate, reasoned, and supported by material indicating the account holder's involvement in the

[13] 2026 SCC OnLine P&H 6362

alleged offence. Bank account under Section 106 of BNSS cannot be attached. The Supreme Court has dismissed *SLP being SLP (Cri.) No. 13433/2025* filed against aforesaid judgment.

6. Bombay High Court in *Kartik Yogeshwar Chatur* v. *Union of India*, 2025 SCC OnLine Bom 4778 has 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.

7. Delhi High Court in *Neelkanth Pharma Logistics (P) Ltd.* v. *Union of India*, 2025 SCC OnLine Del 1055 has 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. 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.

8. From the perusal of record and arguments of both sides, it is evident that no FIR has been registered against the petitioner. No order of attachment under Section 107 of BNSS has been passed by the Magistrate. As per statement of learned counsel for the respondent-bank, there is no disputed/suspicious amount in the petitioner's account. Claim of petitioner is genuine and deserves to be allowed. Accordingly, respondent-Bank is directed to de-freeze petitioner's account within 3 days from today."

THE HIGH COURT OF RAJASTHAN:

26.9. The High Court of Rajasthan in the case of **DHARMENDRA CHAWRA HARISH BHAI v. STATE OF RAJASTHAN**[14] has held as follows:

"…. …. ….

41. The pervasive surge in economic offenses and white-collar crimes is a serious threat to the fastest growing financial ecosystem of India. The Government of India has enacted strong laws and policies to prevent economic offenses and white-collar crimes, including cyber crimes. The legal provisions are enacted to empower the police or other investigating agencies to check and prevent these economic and cyber crimes effectively. At the same time, it is the duty of the police and investigating agencies to ensure that other stakeholders, such as banks, financial institutions, and payment system providers, are not harassed by the SHO or at police station level for procuring information about bank accounts and other financial details, and also for freezing their financial activity by putting a restriction on the operation of their bank account or wallet.

42. In the case of ***State of Maharashtra* v. *Tapas D. Neogy*, (1999) 7 SCC 685 : 1999 SCC (Cri) 1352 : (1999) 98 Comp Cas 626, *Ezulix Software Pvt. Ltd.* v. *State of Maharashtra*, Criminal application (APL) No. 811 of 2020, order dated 9-4-2021 (Bom), *Nevada Properties Pvt. Ltd.* (supra) and *Teesta Atul Setalvad* v. *State of Gujarat*** (supra), it has been consistently laid down by the Supreme Court and High Courts that there has to be a solid suspicion that the bank account is connected to the commission of a crime, and the provision under Section 106 of BNSS (corresponding Section 102 CrPC) has to be activated while freezing any amount or blocking a financial transaction. All forms of payments, including debit and credit cards, electronic fund

[14] 2026 SCC OnLine Raj 3421

transfer e.g. NEFT and RTGS, mobile payment systems(e.g. UPI wallets, clearing house and inter-bank settlement systems), are regulated under the Payment and Settlement Systems Act, 2007, which forms the backbone of the digital payment ecosystem of India.

43. The Reserve Bank of India is also taking steps in handling systematic and potential risk in the operation of payment systems, as the RBI has issued directions from time to time for the smooth operation of the financial payment system in the country. A recent directive dated 15-9-2025 issued by the Reserve Bank of India about the Master Directive on regulation of payment systems indicates that all endeavors were made to rationalize the operation of the PSS Act, 2007, with compliance of the FEMA, 1999 and other regulations.

44. Considering overall circumstances as pointed out before this Court, the police are not meant to exercise any power or authority over any of the stakeholders of the ecosystem of the country, police is not empowered to bully either a citizen or any entity, including any other person not involved in the commission of any crime.

45. A rise in digital arrest scams, where fraudsters impersonate enforcement officials through video calls or under the threat of criminal prosecution, is on the rise. Thus, somewhere it appears that this is a systemic failure of law enforcement or a lack of awareness among citizens. If a fraudster impersonates himself as a police personnel or a CBI official and, by placing a video call, is able to convince any individual or a family by implicating him in a criminal case to release him, and if he is able to extort money and the same is transferred by using bank accounts or other digital means, it means there is a divide between law enforcement agencies and the public at large.

46. In "Due Process of Law: First Indian Reprint, 1993 p.g. 102" **Lord Denning** has described the role of police as under:

> *"In safeguarding our freedoms, the police play vital role. Society for its defence needs a well-led, well-trained and well-disciplined force or police whom it can*

> *trust, and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice. The police, of course, must act properly. They must obey the rules of right conduct. They must not extort confessions by threats or promises. They must not search a man's house without authority. They must not use more force than the occasion warrants……..."*

47. We are living in a country where seeing a policeman makes a citizen feel more nervous than safe. This is a hard fact that all law-abiding citizens are terrorized by the very presence of policemen "not a generalized situation but by and large, it is a hard fact" as the majority of them were not considered ideal by the people.

48. In courts, one of the common argument advanced is that the police will not hesitate to plant evidence and implicate anyone. Even a woman does not feel safe in visiting a police station. This situation cannot be improved overnight, but rather it needs consistent efforts are needed. The potential misuse of authority by police, and the same can only be kept in check if certain restrictions are placed. A restriction is already placed upon SHO/Police while procuring information about the call details of anyone from any telecom/mobile service providers, and such information can be procured only through the Superintendent of Police (Head of the District Police). It means privacy of an individual is paramount consideration, while considering necessity of a criminal investigation.

49. In the development the financial ecosystem, in particular to regulate the bank and digital payment business, the regulatory role is played by the Reserve Bank of India under the Payment and Settlement System Act, 2007. The Government of India has always appreciated the rapid growth of FinTech innovation, such as UPI and domestic digital payment systems. The role of the police is only for investigation in the matter of suspected fraud or economic offences, and that too under the law and not beyond the law. The police has no role to coerce any bank, financial institution, or payment system operator (PSO) including payment aggregators, to do a particular act and or in a particular manner. The notice of the police should be in the form of a request to the bank and payment system operators, and not to hamper the growth story of financial ecosystem. Many times, police action in financial disputes were not only disproportionate but taken to settle certain scores, and it includes corrupt practices adopted by some of the police officials. The Government of India already has two pioneer agencies like the CBI or the ED to handle major financial crimes or issues across the states in the country including international cybercrimes. Therefore, the involvement of police so as to procure information and also to block bank accounts, and particularly threat to take action against the bank or payment system operators (PSOs), is something which is not recognized under any law. Therefore, these instructions are required so as to protect harassment to innocent persons.

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 nodal 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 or crime proceed(s).

51. The draft SOP for NCRP-CFCCFRMS, Custody and Restoration of Money, and Grievance Redressal, as suggested by the Indian Cyber Crime Coordination Centre, shall be made applicable immediately with the aforesaid modifications."

27. **One common stream that runs through all the aforesaid judgments is unmistakable—they all substantially**

toe the line of the judgment in HEADSTAR GLOBAL PRIVATE LIMITED. **The fountainhead of the interpretative approach adopted in those decisions is thus HEADSTAR GLOBAL PRIVATE LIMITED, and it is, therefore, the reasoning in the said judgment that requires closer scrutiny**.

28. In the case of **HEADSTAR GLOBAL PRIVATE LIMITED** *supra*, though notices Section 106 of the BNSS and the power of seizure embedded therein, proceeds to hold that **debit freezing of a bank account partakes the character of attachment of property** and, consequently, falls within the statutory domain of Section 107 of the BNSS. On that premise, the judgment concludes that such debit freezing cannot be brought about by the Investigating Officer on his own and thereafter merely reported to the jurisdictional Magistrate under Section 106(3) of the BNSS. It must, instead, travel through the route ordained by Section 107 of the BNSS and can be effectuated only upon an order of attachment passed by the competent Court or the learned Magistrate.

THE DEVIATION BY THE CO-ORDINATE BENCH:

29. Contemporaneously, however, a coordinate Bench of this Court in the case of **IIFL FINANCE LIMITED v. STATE OF KARNATAKA**[15], upon an elaborate consideration of the statutory scheme obtaining under Sections 106 and 107 of the BNSS and the jurisprudence that preceded their enactment, has taken a view which merits close attention.

"…. …. ….

19. <u>Answer to Point No.3:</u> Whether the investigation officer can seize the gold articles during the course of investigation and as regards which, can the Petitioner have any objection?

19.1 The apprehension expressed by the Petitioner is that upon production of the gold articles pursuant to the summons issued under Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the same would be seized by Respondent No.1. This apprehension, though projected as a grievance, in fact underscores the very purpose of criminal investigation where property alleged to be stolen is traced and recovered.

19.2 At the outset, it is necessary to reiterate that a summons under Section 94 merely facilitates production and does not by itself authorise or effect seizure. The power of seizure is independently traceable to Section 106 of the BNSS, which operates at a subsequent and distinct stage.

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[15] **W.P.NO.31057 of 2025 decided on 04-02-2026**

19.3 Section 106 of the BNSS provides the power to a police officer to seize certain property which reads 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 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.*

19.4 Section 106(1) expressly empowers a police officer to seize any property which is alleged or suspected to have been stolen, or which is found under circumstances giving rise to suspicion of the commission of any offence. The expression "may seize" is to be read not as conferring unguided discretion, but as a power to be exercised when seizure is necessary for the purposes

of investigation, preservation of evidence, and eventual restitution.

19.5 In cases involving movable property such as gold, valuable, easily transferable, and susceptible to concealment or dissipation, seizure is not merely permissible but often indispensable to ensure that the investigation is meaningful and effective.

19.6 The necessity of seizure in such cases flows from multiple considerations:

19.6.1 to prevent further circulation or alienation of stolen property,
19.6.2 to preserve the identity and integrity of the articles,
19.6.3 to enable forensic, documentary, and comparative verification,
19.6.4 and ultimately, to facilitate restoration to the true owners upon conclusion of proceedings.

19.7 Permitting alleged stolen property to remain indefinitely in private custody, even with a financier, would undermine each of these objectives and render the investigative process illusory.

19.8 Importantly, the power of seizure under Section 106 is not unregulated. The BNSS incorporates multiple statutory safeguards, ensuring that seizure is lawful, accountable, and proportionate:

19.8.1 Under Section 106(2), the seizing officer must immediately report the seizure to the officer in charge of the police station.

19.8.2 Under Section 106(3), the seizure must be forthwith reported to the jurisdictional Magistrate.

19.8.3 The Magistrate thereafter exercises supervisory control over custody, retention, and interim handling of the property.

19.9 These safeguards ensure that seizure is not arbitrary, excessive, or punitive, but remains tethered to the needs of investigation and judicial oversight.

19.10 The proviso to Section 106(3), which deals with property of minimal value or subject to speedy decay, has no application to gold articles of substantial monetary and evidentiary value. On the contrary, such articles require secure custody and judicial supervision, reinforcing the justification for seizure rather than negating it.

19.11 Section 107 deals with Attachment, Forfeiture or Restoration of property reads as under:

> *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 Judicial Magistrate exercising Disposal of things found in search beyond jurisdiction. Recording of search and seizure through audio video electronic means. Power of police officer to seize certain property. Attachment, forfeiture or restoration of property. 5 10 15 20 25 30 35 40 45 50 31 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 Judicial 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 Judicial 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 Judicial Magistrate within a period of fourteen days specified in the show-cause notice, the Court or the Judicial Magistrate may proceed to pass the ex-parte order.

(5) Notwithstanding anything contained in sub-section (2), if the Court or the Judicial Magistrate is of the opinion that issuance of notice under the said sub-section would defeat the object of attachment or seizure, the Court or Judicial 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 Judicial Magistrate finds the attached or seized properties to be the proceeds of crime, the Court or the Judicial Magistrate shall by order direct the District Magistrate to rateably distribute such 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.

19.12 Perusal of subsection (1) of Section 107 would indicate that where a police officer making an investigation has a reason to believe that the property is derived or obtained directly or indirectly as a result of criminal activity, or 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.

19.13 Subsection (2) of Section 107 provides for the Magistrate to pass necessary orders where he has reason to believe, whether before or after taking evidence, that all or any such properties are proceeds of crime, to issue a notice upon such person calling upon him to show cause within a period of 14 days as to why an order of attachment shall not be made.

19.14. In terms of Subsection (4) of Section 107, the Magistrate, after considering the explanation, if any, to the show cause notice, and after giving an opportunity of being heard, may pass an order of attachment in respect of the properties which are found to be proceeds of the crime.

19.15. Subsection (5) of Section 107 provides for a situation where, if delay were to defeat the object of attachment or seizure, an interim ex parte order of seizure, attachment or seizure could be made.

19.16. Sections 106 and 107 of the BNSS Act operate in different fields. Section 106 deals with seizure, whereas Section 107 deals with attachment, forfeiture or restoration, as can be seen from the extracted provisions above. Under subsection (1) of Section 106, as indicated supra, if any property is alleged or suspected to have been stolen, then the police officer may seize such property.

19.17. The contention of Sri. Anish Jose Antony, learned counsel for the petitioner, that seizure can be made only under

Section 107, in my considered opinion, is completely misconceived. As indicated supra, **Section 107 deals with the attachment of such property and not seizure, seizure being covered under Section 106. Respondent No.1, on the basis of a complaint which has been registered, has called upon the petitioner to provide certain information and produce the gold articles pledged with the petitioner. If those gold articles are found to be the ones stolen from respondent No.2, the petitioner cannot have any objection to such seizure because they are stolen property coming within the meaning of Section 106 of the BNSS.**

19.18. Section 107 of the BNSS, which provides for attachment, forfeiture, and restoration, operates at a later and more adjudicatory stage. It is invoked when the court forms an opinion that property constitutes proceeds of crime. The Petitioner's attempt to equate seizure under Section 106 with attachment under Section 107 is legally flawed. These provisions complement but do not substitute each other.

19.19. Seizure under Section 106 is investigative and preservatory.

19.20. Attachment under Section 107 is consequential and adjudicatory.

19.21. The latter cannot be invoked without the former where the property itself is the subject-matter of the offence.

19.22. In the present case, Respondent No.1 has not yet seized the gold. What has been done is issuance of a lawful summons under Section 94. Upon production, if the investigating officer is satisfied that the gold corresponds to the stolen articles alleged in the complaint, seizure under Section 106 would be not only lawful but proportionate and necessary.

19.23. Proportionality, in this context, does not mean abstention from seizure; it means that seizure must be:

19.23.1 limited to the property necessary for investigation,

19.23.2 followed by prompt reporting to the Magistrate, and subject to judicial directions regarding custody and further handling.

19.24. The Petitioner's claim that its status as a pledgee or secured creditor entitles it to object to seizure is untenable. Stolen property does not acquire immunity by passing through a commercial transaction. A pledge created by an accused who had no lawful title cannot override:

19.24.1 the statutory power of seizure, or

19.24.2 the superior right of the true owner.

19.25 The Petitioner's interest, if any, remains subordinate to criminal law imperatives and cannot be used to obstruct seizure of stolen property.

19.26 The constitutional objections raised are equally misconceived.

19.26.1 Article 19(1)(g) protects lawful business, not transactions involving stolen property.

19.26.2 Article 21 is inapplicable to a corporate entity and, in any event, lawful seizure pursuant to statute does not violate personal liberty.

19.26.3 Article 300A permits deprivation of property by authority of law, which Section 106 expressly provides.

19.27. Thus, seizure effected in accordance with BNSS is constitutionally valid and immune from such challenge.

19.28 From the perspective of victims, seizure assumes even greater significance. The true owners of the gold, customers of Respondent No.2, continue to suffer deprivation of property of immense personal and economic value. Seizure ensures:

19.28.1 preservation of the property,
19.28.2 prevention of further misuse,
19.28.3 and a realistic possibility of restitution upon conclusion of trial.

19.29. To deny or delay seizure would be to privilege commercial convenience over victim justice, a course impermissible in criminal jurisprudence.

19.30. As observed supra accepting the Petitioner's contentions would set a dangerous precedent whereby stolen property could be shielded from seizure merely by being pledged with financial institutions. Such an interpretation would frustrate investigation, embolden economic offenders, and erode public confidence in the criminal justice system.

19.31. **An investigating officer is statutorily empowered under Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to seize property alleged or suspected to be stolen during the course of investigation. Where the property itself constitutes the subject-matter of the offence, seizure is not merely permissible but necessary, proportionate, and integral to effective investigation, preservation of evidence, and eventual restitution to the true owners.**

19.32. **The power of seizure under Section 106 is distinct from and independent of the provisions relating to attachment, forfeiture, or restoration under Section 107 BNSS, which operate at a subsequent and adjudicatory stage. A summons issued under Section 94 BNSS requiring production of such property does not amount to seizure, nor does it adjudicate proprietary rights.**

19.33. A pledgee or financier holding alleged stolen property cannot object to seizure on the basis of contractual security interest, commercial hardship, or apprehended financial

> loss, as no person can acquire a better title than that possessed by the pledger. Stolen property does not acquire immunity from seizure by being routed through commercial transactions.
>
> **19.34**. **Seizure effected in accordance with Section 106 BNSS, subject to mandatory reporting to the jurisdictional Magistrate and judicial supervision, incorporates adequate procedural safeguards and does not violate Articles 19(1)(g), 21, or 300A of the Constitution. The statutory duty to investigate and recover stolen property, and to prevent further deprivation suffered by the true owners, prevails over all competing private commercial interests.**
>
> **19.35**. Accordingly, Point No.3 is answered by holding that the investigating officer is not only empowered but, where circumstances so warrant, duty-bound under Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to seize gold articles alleged or suspected to be stolen. Such seizure is proportionate, necessary, and subject to adequate statutory and judicial safeguards. The Petitioner has no legal right to object to such seizure merely on the basis of contractual or commercial interest. Any seizure effected shall be governed by the procedural protections and judicial oversight mandated under the BNSS."

The coordinate Bench, on an erudite exposition of the statutory scheme, holds that **Sections 106 and 107 of the BNSS occupy distinct and clearly demarcated fields of operation**, and that one cannot be telescoped into the other. Section 106 preserves the investigative power of seizure which was hitherto housed in Section 102 of the Cr.P.C., while Section 107 of the BNSS introduces a distinct regime concerning attachment, forfeiture and restoration of property alleged to be the proceeds of crime.

29.1. On this statutory distinction, the coordinate Bench holds that **debit freezing of a bank account, when undertaken in the course of investigation, cannot *ipso facto* be christened an "attachment proceeding" under Section 107 of the BNSS**. A debit freeze, being a recognised species of seizure, would continue to draw its source of power from Section 106, subject, of course, to compliance with the mandate of sub-section (3) thereof—forthwith reporting of the seizure to the jurisdictional Magistrate. The exposition is of significance, for it preserves the legislative individuality of the two provisions. To treat every debit freeze as an attachment under Section 107 of the BNSS would be to efface the distinction consciously maintained by Parliament between **"seizure" as an investigative measure under Section 106 of the BNSS and "attachment" as a judicial process under Section 107 of the BNSS**. If the two were intended to be synonymous or interchangeable, there was little need for the Legislature to retain Section 106 of the BNSS in a language substantially identical to Section 102 of the Cr.P.C. while, in the same enactment, separately engrafting the elaborate mechanism of attachment under Section 107 of the BNSS.

THE II DEVIATION BY DIVISION BENCH OF THE HIGH COURT OF ALLAHABAD:

29.2. A Division Bench of the High Court of Allahabad in **ASHISH RAWAT v. UNION OF INDIA**[16] considers entire spectrum of the law including **HEADSTAR GLOBAL PRIVATE LIMITED** and holds as follows:

"…. …. ….

> **30.** Having considered the submissions of learned counsel for the petitioners, following questions emerge for the determination:
>
> (*i*) Whether the term "property" under Section 106 BNSS extends to entire bank account or only to a particular amount therein alleged to be stolen or suspected to be involved in an offence.
>
> (*ii*) Whether the bank can freeze accounts at the instance of the police without prior intimation to the account holder or the competent Magistrate in the light of procedure prescribed under Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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[16] 2026 SCC OnLine All 2572

(*iii*) Whether Sections 106 and 107 of BNSS operate independently and distinctly, with Section 106 BNSS governing seizure or temporary freezing of accounts and Section 107 BNSS governing attachment of the account, and whether their applicability differs at different stages of investigation.

(*iv*) Whether there arises any jurisdictional issue in the event bank accounts are maintained in one place, but the transactions giving rise to the alleged suspicious amounts occur elsewhere, and hence where the jurisdiction of a Magistrate would vest.

31. At this stage, we proceed to examine the scope and ambit of Sections 106 and 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which is necessary for the determination of first, second and third issue, which fall for consideration in the present batch of petitions. Section 106 BNSS reads 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 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."

32. Section 107 BNSS is also related and same is reproduced below for easy reference:

"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 subsection would defeat the object of attachment or seizure, 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 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."

33. Bare reading of the aforementioned provisions indicate that it empowers the investigating agency, to take necessary steps for seizure or securing of property suspected to be connected with the commission of any offence during the course of the investigation. The object underlying the provision is to enable immediate and

effective action so as to preserve the subject matter of the offence and to prevent its dissipation, particularly in cases of cyber-crime, where delay may defeat the ends of justice.

34. The Supreme Court, in *State of West Bengal* v. *Anil Kumar Dey*, 2025 SCC OnLine SC 2753, examined the powers of the police under Section 102 CrPC (now Section 106 BNSS) while addressing the following questions, and held that:

> *"2. The short but significant question that arises in this appeal is whether, when proceedings initiated against a person are only under the provisions of the Prevention of Corruption Act, 1988,* ***would it be open for the investigating authorities (police) to freeze the accounts of the accused persons under Section 102 of the Code of Criminal Procedure 1973.*** *In other words, are the powers under Section 18A of the PC Act, which prescribes the application of the criminal law Amendment Ordinance, 19442 insofar as the proceedings of attachment are concerned, and the power under Section 102 CrPC i.e. the power of a police officer to seize certain property, co-existent or mutually exclusive.*
>
> *...*
>
> *9. The text of Section 102, CrPC, has already been reproduced supra. From a studied analysis of the judgments of this Court involving this provision, the following principles/aspects can be highlighted:*
>
> *9.1 Under this Section,* ***property that is alleged/suspected to be stolen; is the object of crime; has a direct link to the commission of the offence, can be seized.*** *[See:* M.T. Enrica Lexie *v.* Doramma]
>
> *9.2 The* ***police have the power to seize passports and bank accounts under this Section****. [See:* Tapas D. Neogy *(supra)*, Suresh Nanda *v.* CBI, Teesta Atul Setalvad *v.* State of Gujarat]
>
> *9.3 Orders of freezing issued under this Section, can only be in effect to aid investigation. [See:* Jermyn

> Capital LLC *v.* CBI] *Once the investigation is complete, that ipso facto, does not entitle the person whose bank accounts have been frozen, to have them released. It shall, however, be open to them to apply to the concerned authority for the same, and the authority shall consider the same in accordance with law. [See:* Teesta Atul Setalvad *(supra)]*
>
> *9.4 The police do not have the power to seize any immovable property. It cannot dispossess someone who is in possession of the immovable property. [See:* Nevada Properties (P) Ltd. *v.* State of Maharashtra]
>
> *9.5 It is not an enabling provision under which the police may, to do justice, seize the property and hand it over to whom they believe to be the rightful owner thereof. [See:* Nevada Properties (P) Ltd. *(supra)]".*

35. The issue regarding bank account being a property, is already settled by the Supreme Court in *State of Maharashtra* v. *Tapas D. Neogy*, (1999) 7 SCC 685 : 1999 SCC (Cri) 1352 : (1999) 98 Comp Cas 626 where the Supreme Court has recognized that a bank account is "property" within the meaning of Section 102 CrPC, which is verbatim Section 106 BNSS after arrival of new criminal laws. Since the bank account is recognised as a property by the Supreme Court, it can undoubtedly be capable of being freezed on instructions of the police or investigating authority during investigation. Relevant paragraph of the judgment of the Supreme Court in the matter of *Tapas D. Neogy* (supra) observes that:

> *"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. <u>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</u>. 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."

(Emphasis added)

36. In view of a settled legal position on the issue that a bank account is "property", we proceed to consider first issue, whether the entire amount lying in a bank account is to be treated as "property" for the purposes of Section 106 BNSS, or only such portion thereof, which is alleged or suspected to have been stolen, or having a suspicion of it being connected with the commission of any offence. Section 106(1) BNSS empowers a police officer to seize any property, which in the present context includes a bank account, that may be alleged or suspected to have been stolen, or which is found under the circumstances giving rise to suspicion of the commission of any offence. The provision makes it clear, without any ambiguity that only such property, which is suspected to be stolen or is linked to suspicious circumstances is liable to be seized. Consequently, we hold that the power of seizure is limited to the extent of the alleged or suspicious amount and cannot be construed to permit freezing of the entire operation of the bank account in absence of twin conditions prescribed in Section 106 BNSS, which empowers the police officer to seize. Property being a specific amount, the entire amount lying in a bank account cannot be freezed and operation of bank account cannot be denied.

37. Having addressed the first issue, we now proceed to consider the second issue, whether the bank can freeze accounts at the instance of the police. A bare reading of the provision of Section 106 quoted above makes it explicit that the police officer can instruct for the seizure of any account or put a lien on a certain amount of any account if any of twin conditions is being fulfilled: (i) the allegation or suspicion of the amount being stolen; (ii) there is suspicion that the amount is related to the commission of any offence. But compliance with Section 106(1) is sufficient only to instruct the bank for freezing and thereafter the police officer is required to take further steps for the continuation of such freezing of the account or part of the amount in any account. Section 106(2) provides that if the seizure was instructed by an officer who is subordinate to the officer in charge of a

police station, then he shall forthwith report the seizure to that officer, and Section 106(3) provides that every police officer acting under Section 106(1) shall forthwith report the seizure to the Magistrate having jurisdiction where the property was seized. Considering this, we hold that the police officer can instruct the freezing of the bank account, as we hold it being "property" in case of bank account to be freezed under Section 106 BNSS, with full compliance of Section 106 BNSS and not *dehors* the same.

38. The next aspect of the second issue is, whether the account holder is required to be given prior intimation, and whether an order of a competent court is necessary before the seizure of a bank account or the property under Section 106 BNSS. **Plain reading of Section 106 clearly indicates that the provision empowers police officer to seize property alleged or suspected to have been stolen or found under circumstances giving rise to suspicion of the commission of any offence. Nowhere in the statutory scheme there is any requirement that prior notice must be given to the owner of the property, or that a court order must be obtained before seizure like it is made for the attachment under Section 107 BNSS. The language of the provision is clear, unambiguous, and self-contained that the power to seize vests directly with the police officer, subject to the procedural safeguards envisaged in the statute itself. To interpret Section 106 BNSS as requiring prior intimation or a judicial order would affect the purpose behind the provision, which is protecting the property or getting it misused further for the similar offence.**

... ...

40. Any interpretation that prior notice is mandatorily to be given by police officer, will unnecessarily curtail the power expressly granted under the statute and will frustrate the very object of enabling prompt action to preserve property connected with suspected offences. Therefore, we are of considered view that neither prior intimation to the account holder by the police nor taking the court order is a precondition to the exercise of the power of seizure under Section 106 BNSS although giving the information as per provision of Section 106(2) and 106 (3) is mandatory. However, neither Section 106 and Section 107 of the BNSS, nor any other law, prohibits bank authorities from informing account holders about the operational status of their accounts. While such intimation may not be required prior to seizure, banks shall inform the account holders after the seizure of the account, upon instructions from the investigating agencies. Bank account holders, being consumers of the banks, are at least entitled to be informed of the seizure of their accounts, which renders them non-operational, so as to protect themselves from hardships and to take appropriate legal recourse.

41. Having dealt with the aforementioned issues, the Court now proceeds to examine the next issue arising in the present petitions, *i.e.,* **whether Sections 106 and 107 BNSS operate independently and distinctly. In this regard, the Constitution Bench judgment of the Supreme Court in *Nevada Properties (P) Ltd.* v. *State of Maharashtra*, (2019) 20 SCC 119: (2020) 3 SCC (Cri) 782, has distinguished power to seize and attach in following words:**

> ***"34... the reference is answered by holding that the power of a police officer under Section 102 of the Code to seize any property, which may be found under circumstances that create suspicion of the commission of any offence, would not include the power to attach, seize and seal an immovable property."***

... ...

50. Considering above, we are of the view that **Sections 106 and 107 BNSS operate at distinct stages and serve different purposes in the course of an investigation. Section 106 empowers the police to seize property that is alleged or suspected to have been stolen, or which is found under circumstances creating a suspicion of an offence, thereby preserving evidence or relevant property for investigative purposes and is a temporary measure. Section 107, on the other hand, contemplates attachment of property, which is not a temporary measure but till the conclusion of the trial, which is for longer term that initial investigation for which the prompt action is foreseen under Section 106 BNSS. Seizure under Section 106 is**

> **therefore immediate and investigatory in nature, while attachment under Section 107 is precautionary and may be invoked independently at both stages. It follows that the applicability of one provision does not automatically trigger the other, and each must be exercised in accordance with the specific object and scope envisaged as per provisions made under respective Sections.**
>
> **51. The legislative framework of the BNSS deliberately segregates the powers over property into two distinct stages of investigation: "seizure" under Section 106 and "attachment" under Section 107. Attachment is a significantly more severe step than seizure, while seizure is a preliminary, emergent action taken by police to secure physical evidence requiring only post-facto intimation. Attachment constitutes a substantive deprivation of property rights, and strictly demands judicial application of mind followed by an order attachment. So while power under Section 106 lies at the discretion at police, Section 107 vests power with a Judicial Magistrate only.**"

The Division Bench of the High Court of Allahabad has sounded the position with equal clarity. It holds that there ought to be **no obfuscation whatsoever** on the distinct statutory territories occupied by Sections 106 and 107 of the BNSS. Section 106 of the BNSS embodies an independent and substantive power of seizure vested in the Police, exercisable during the course of investigation, whereas Section 107 of the BNSS operates in an altogether different domain—the judicial process of attachment, forfeiture or restoration of property alleged to represent the proceeds of crime. The two provisions, though they may operate upon property connected with criminal activity, neither overlap in their essential character nor obliterate the separate procedural architecture that the Legislature has consciously devised for each.

30. The interpretation rendered by the coordinate Bench of this Court in **IIFL FINANCE LIMITED** and by the Division Bench of the High Court of Allahabad in **ASHISH RAWAT** does not stand in jurisprudential isolation. On the contrary, it is in strict consonance with the exposition of law by the Apex Court in the cases of **TEESTA ATUL SETALVAD** *supra* and **TAPAS D. NEOGY** *supra*. The Apex Court, while interpreting Section 102 of the Cr.P.C.—the statutory progenitor of Section 106 of the BNSS—recognised the amplitude of the expression **"any property"** and the power of the Police, in the course of investigation, to seize property having the requisite nexus with the commission of an offence. A bank account, and the monies lying therein, were not placed beyond the reach of that investigative power.

THE ANSWER:

31. Therefore, when Section 106 of the BNSS substantially carries forward Section 102 of the Cr.P.C., including the mandate under sub-section (3) of forthwith reporting the seizure to the jurisdictional Magistrate, the jurisprudence developed by the Apex Court under the predecessor provision cannot be rendered otiose merely by the introduction of Section 107 of the BNSS. **Section 107 of the BNSS is an addition to the statutory armoury; it is not an obliteration of the power preserved under Section 106 of the BNSS.** To construe it otherwise would be to permit the newly introduced provision on attachment to swallow whole the independently preserved provision on seizure—a construction that neither the text nor the architecture of the BNSS would commend. Thus, the coordinate Bench in **IIFL FINANCE LIMITED** and the Division Bench of the High Court of Allahabad in **ASHISH RAWAT**, in recognising seizure under Section 106 and attachment under Section 107 of the BNSS as distinct juridical concepts, have, in effect, carried forward the jurisprudential thread woven by the Apex Court in **TEESTA ATUL SETALVAD** *supra* and **TAPAS D. NEOGY**

supra. The statutory language may have travelled from the Cr.P.C. to the BNSS, but the principle governing the investigative power of seizure has not lost its identity in that journey.

32. On a plain reading of the judgments rendered by the several High Courts—commencing from **HEADSTAR GLOBAL PRIVATE LIMITED** of the High Court of Kerala, which has furnished the jurisprudential basis for the line of decisions noticed *supra*, and juxtaposing them with the judgment of the coordinate Bench of this Court in **IIFL FINANCE LIMITED** and that of the Division Bench of the High Court of Allahabad in **ASHISH RAWAT**—what unmistakably emerges is that **Sections 106 and 107 of the BNSS are not competing provisions; they are provisions designed to operate in distinct statutory fields**. Section 106 of the BNSS is, for all practical and interpretative purposes, a re-enactment of Section 102 of the Cr.P.C. The Legislature has carried the provision from the old Code - the Cr.P.C into the new Sanhita without any material alteration in its language. This assumes significance. The construction placed by the Apex Court upon Section 102 of the Cr.P.C.—that the expression **"property" is of**

sufficient amplitude to take within its sweep a bank account and that the power of seizure comprehends the power to issue a prohibitory direction to a Bank restraining operation of such account—cannot be wished away upon the advent of the BNSS. When the Parliament re-enacts a provision in substantially the same language, against the backdrop of an authoritative judicial exposition of that very language, the interpretation that had attached itself to the predecessor provision travels with the provision into its new statutory home. The jurisprudence under Section 102 of the Cr.P.C. thus breathes into Section 106 of the BNSS with undiminished vigour.

33. Section 107 of the BNSS, on the other hand, is a new entrant and occupies a field distinctly its own. It is attracted when, during investigation, the Police Officer has reason to believe that property has been derived or obtained, directly or indirectly, as a result of criminal activity or from the commission of an offence. In such a circumstance, if the property is sought to be **attached as proceeds of crime**, the Investigating Officer cannot unilaterally accomplish such attachment. The statutory route under Section 107

of the BNSS must be travelled: approval of the Superintendent of Police or Commissioner of Police, as the case may be, followed by an application to the competent Court or Magistrate, whereupon the judicial process contemplated under the succeeding sub-sections is set in motion.

34. The distinction, therefore, is fundamental. **Section 106 of the BNSS embodies an investigative and preservative power of seizure; Section 107 of the BNSS embodies an adjudicatory regime of attachment, forfeiture and restoration. Under Section 106 of the BNSS, the power originates in the Police Officer and its exercise is followed by the statutory obligation of forthwith reporting the seizure to the jurisdictional Magistrate. Under Section 107 of the BNSS, the Police Officer sets the process in motion, but the attachment itself bears the imprimatur of a judicial order. Under the former, the Magistrate is informed of an investigative act already undertaken; under the latter, the Court or Magistrate is called upon to exercise a statutory**

adjudicatory power upon satisfaction of the ingredients engrafted therein.

35. **The two provisions, therefore, are complementary, not competitive; concurrent in the statutory scheme, but distinct in their fields of operation**. **One does not eclipse the other; one cannot be employed to denude the other of its content. Section 107 of the BNSS cannot be so expansively construed as to swallow Section 106 of the BNSS, for such an interpretation would render the legislative re-enactment of Section 102 of the Cr.P.C. under Section 106 of the BNSS substantially otiose.** Equally, Section 106 of the BNSS cannot be invoked as a device to accomplish what is, in substance and statutory character, an attachment of proceeds of crime requiring recourse to Section 107 of the BNSS.

36. **The former is essentially investigative and preservative; the latter is judicial and adjudicatory. The former seeks to preserve property during the investigation; the latter proceeds against property on the premise that it represents proceeds of crime and may ultimately culminate**

in forfeiture or restoration. The source of power, the stage of its exercise, the authority competent to exercise it and the consequences that flow therefrom are all materially different. Therefore, Sections 106 and 107 of the BNSS must be permitted to run on their own statutory rails. **They may run parallel, but they do not run into each other.** They are attracted by different factual circumstances, employ different procedural safeguards and produce different juridical consequences. To merge the two would be to blur a distinction that Parliament has deliberately drawn; to permit one to displace the other would be to rewrite the statutory scheme.

37. It is on the aforesaid construction that the interpretation rendered by the coordinate Bench of this Court in **IIFL FINANCE LIMITED** and by the Division Bench of the High Court of Allahabad in **ASHISH RAWAT** commends acceptance. Such an interpretation does not render either provision redundant; on the contrary, it preserves the vitality of both, assigns to each its legitimate field of operation and gives full meaning and effect to every word consciously employed by Parliament. This construction is also in

complete accord with the authoritative exposition of Section 102 of the Cr.P.C. by the Apex Court in **TAPAS D. NEOGY** and **TEESTA ATUL SETALVAD** *supra*. When Section 106 of the BNSS carries forward, substantially *verbatim*, the language of Section 102 of the Cr.P.C., the judicial meaning that had become firmly attached to the predecessor provision cannot be jettisoned merely because Parliament has, alongside it, introduced a new and distinct mechanism under Section 107 of the BNSS. **The birth of Section 107 of the BNSS does not sound the death knell of Section 106 of the BNSS.**

38. **Any interpretation to the contrary would permit Section 107 of the BNSS to cast a statutory eclipse over Section 106 of the BNSS, reducing the latter, despite its conscious re-enactment, to little more than a legislative ornament**. Such a construction cannot be countenanced. Courts must endeavour to make statutory provisions coexist, not collide; to harmonise them, not permit one to devour the other. **Section 106 of the BNSS must therefore be allowed to breathe within its legitimate sphere of investigative seizure, just as Section**

107 of the BNSS must operate with full vigour within its distinct province of attachment, forfeiture and restoration of proceeds of crime. The two provisions thus stand side by side—not as statutory adversaries vying for the same territory, but as complementary provisions entrusted with different tasks in the criminal process. Section 106 preserves; Section 107 of the BNSS adjudicates. Section 106 seizes; Section 107 of the BNSS attaches, forfeits or restores. To conflate the two would be to erase a distinction that Parliament has consciously etched into the BNSS.

39. The co-existence of a freeze and power to attach is not a novelty today. It sprang from Criminal Law Amendment Ordinance of 1944 and is a provision which is within the BUDS Act itself. It is, therefore, an action comes to be filed before the concerned Court under sub-section (3) of Section 15 of the BUDS Act r/w Sections 497 and 503 of the BNSS. Therefore, the judgment of the High Court of Kerala in the case of **HEADSTAR GLOBAL PRIVATE LIMITED** is clearly distinguishable on the plain reading of the statute. However, other High Courts including the coordinate Bench

would follow **HEADSTAR GLOBAL PRIVATE LIMITED**. **HEADSTAR GLOBAL PRIVATE LIMITED** being only of a persuasive value, it would not bind this Court to follow it as is done by the coordinate Bench, as it runs counter to the mandate of the statute and the interpretation of a bank account to be a property and that the bank account being a property could be debit frozen as held by the Apex Court in the afore-quoted judgments.

40. **If the contention advanced by the learned senior counsel for the respondent—that even a debit freeze of a bank account must necessarily pass through the entire procedural rigmarole contemplated under Section 107 of the BNSS—is accepted, the consequence would not merely be anomalous;** it would be catastrophic to the very efficacy of investigation, particularly in the burgeoning universe of cybercrime**. It cannot be lost sight of that nations across the globe, and India in particular, are today grappling with an unprecedented proliferation of cybercrime. Technology has bestowed upon mankind extraordinary convenience; it has, at the same time, placed in the hands of the unscrupulous an**

equally extraordinary ability to commit crime with speed, anonymity and geographical indifference. A naïve and gullible citizen may see his life's savings disappear at the click of a mouse or the stroke of a key. In such crimes, money does not merely move; it flies**—from one account to another, through a labyrinth of mule accounts, often in a matter of seconds**.

ILLUSTRATION:

41. An illustration would make the consequence of the interpretation canvassed by the respondent starkly apparent. A citizen loses ₹50,00,000/- in an online fraud. He immediately reaches out to the Cyber Crime Command Centre or the jurisdictional Police and informs them that the amount has been fraudulently transferred into a particular bank account, the particulars of which are readily available. At that moment, time is not merely of the essence; **time is the very soul of the remedial action**. The identified account must be subjected to a debit freeze within seconds, or at the highest within minutes, if the money of the victim is to be preserved. Once the prohibitory direction is

issued and the amount secured from further dissipation, the Police Officer would then forthwith report the action to the jurisdictional Magistrate, as mandated under Section 106(3) of the BNSS. The sequence is thus both legally structured and practically efficacious—**preserve first; report forthwith thereafter**.

42. Now, the submission of the learned senior counsel for the respondent, Sri Sandesh J. Chouta, may be tested against the very same illustration. If every such debit freeze is necessarily an "attachment" under Section 107 of the BNSS, what is the Police Officer expected to do when the frantic victim reports the loss of ₹50,00,000/-? The Police must first receive the complaint, register the crime, undertake the statutory exercise contemplated under Section 107 of the BNSS, obtain the requisite approval, approach the competent Court or the learned Magistrate with an application, and await consideration as to whether the property constitutes proceeds of crime. The statutory process may then entail issuance of notice and consideration of the response, or, in an appropriate case, an *ex parte* order of attachment. By the time this procedural journey reaches its destination, **the money may have travelled**

through ten accounts, crossed several jurisdictions, been converted into another form, or simply vanished beyond retrieval.

43. What then remains for the victim? An order of attachment over an empty account. The procedure would have triumphed, but justice would have perished in the process. The victim loses the money; the perpetrator gains the time; and the law is reduced to a spectator chasing funds that have long since disappeared. Such an interpretation would transform a provision intended to aid criminal investigation into one that unwittingly furnishes a window of opportunity to the cybercriminal.

44. That surely cannot be the consequence that the Parliament intended. A statute cannot ordinarily be construed in a manner that arms the offender with time while disarming the investigator of the ability to preserve the fruits of the crime. **The law cannot insist that the Police first complete a judicial pilgrimage while the proceeds of crime are electronically galloping from account to account.** The distinction between the

immediate preservative power under Section 106 of the BNSS and the adjudicatory mechanism under Section 107 of the BNSS becomes particularly vivid in this context.

45. The legislative choice assumes further significance because Parliament was not legislating on a clean slate. Section 102 of the Cr.P.C., its interpretation by the Apex Court, and the settled understanding that a bank account constitutes "property" capable of being subjected to a prohibitory direction were all part of the existing legal landscape when the BNSS came to be enacted. Parliament is presumed to have been aware of that statutory and precedential backdrop. Yet, while enacting Section 106 of the BNSS, it substantially reproduced Section 102 of the Cr.P.C., including the requirement of forthwith reporting to the Magistrate. **The language is carried forward because the power is carried forward.**

46. Section 107 of the BNSS, therefore, cannot be read as silently extinguishing what Section 106 of the BNSS expressly preserves. Had Parliament intended that, after the commencement of the BNSS, no bank account could ever be debit-frozen by the

Police without a prior order of the Court or the Magistrate, it could have said so in clear terms. It has not. On the contrary, it has retained Section 106 of the BNSS alongside the newly created mechanism under Section 107 of the BNSS. The Court cannot, by interpretative fusion, make one provision consume the other.

47. The cyber crime illustration is not an excursion beyond the statute; it demonstrates why the distinction embedded in the statute matters. **Section 106 of the BNSS equips the investigating agency to act with immediacy to preserve property; Section 107 of the BNSS enables the Court to adjudicate upon attachment, forfeiture or restoration of property as proceeds of crime. One responds to the urgency of investigation; the other supplies the architecture of judicial adjudication. Confounding the two would not advance the object of the BNSS—it would defeat it.**

48. Therefore, the interpretation that every debit freeze must necessarily undertake the procedural voyage under Section 107 of the BNSS cannot be accepted. Such a construction would produce consequences at once anomalous, impracticable and destructive of

effective investigation. **The Legislature cannot be presumed to have designed a procedural sanctuary for the cybercriminal where every second gained by procedure becomes another second available to spirit away the victim's money.** Section 106 of the BNSS must be permitted to perform the immediate preservative function for which its predecessor had long stood, leaving Section 107 of the BNSS to operate in the distinct field Parliament has assigned to it.

49. The Legislature, while engrafting Section 107 into the BNSS, must be presumed to have been acutely conscious of the existence of Section 106 of the BNSS, its statutory ancestry in Section 102 of the Cr.P.C., and the judicially settled contours that had gathered around the latter through authoritative pronouncements of the Apex Court. Parliament legislates against the backdrop of existing law; it does not legislate in a vacuum. Therefore, when Section 106 of the BNSS was consciously re-enacted in language substantially identical to Section 102 of the Cr.P.C., and Section 107 of the BNSS was simultaneously introduced as a new provision, the legislative intendment could

never have been that the latter should **eclipse, efface or render the former otiose, redundant or a mere dead letter adorning the statute book**.

50. The Apex Court has, on more than one occasion, recognised that the Legislature is presumed to know the existing law and the authoritative judicial interpretation placed upon it, and that when it chooses to re-enact a provision without material alteration, such legislative choice cannot be regarded as accidental or without consequence. It is, therefore, apposite to notice the exposition of the Apex Court on this principle in **COMMISSIONER OF INCOME TAX, DELHI v. BANSI DHAR AND SONS**[17] wherein it is held as follows:

"…. …. ….

> **36.** The special jurisdiction of the High Court under Section 256 does not deprive it of judicial character or its inherent power, it was submitted. This in our opinion does not solve the question because the High Court in answering reference indubitably acts in judicial capacity and must be implied to have powers which are necessary to discharge the obligations in exercising its jurisdiction of giving advice conferred by the special provisions of the statute. It was further submitted that the extent and scope of that inherent power could not be confined to a straitjacket. It took within its ambit the power to grant stay of proceedings before the court as it

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[17] **(1986) 1 SCC 523**

deemed necessary to do for the ends of justice. The High Court could exercise such power to grant stay, it was submitted where the legislature had not denied or excluded the same in unmistakable terms But this was not clear because of the language. It was stated that pendency of a reference would not stay the realisation, indicates that reference has nothing to do with the stay of realisation. The realisation or non-realisation of tax is part of the appellate jurisdiction of the Tribunal. It was, however, submitted that the inherent power of the High Court and also of the Supreme Court had not been excluded by the general provision in Section 265 of 1961 Act which stated that notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made. This section, it was submitted, did not impose any embargo on the inherent power. It was submitted that Section 265 of 1961 Act, as regards reference made to the High Court, is in parimateria with Section 66(7) which also related to reference to the High Court. Section 66(7) was interpreted by the Andhra Pradesh High Court in *Polisetti Narayana Rao* v. *CIT* [(1956) 29 ITR 222 (AP HC)] . It was submitted that legislature by adopting the identical language in 1961 Act must be regarded as having accepted it in Section 265 of 1961 Act. **It was submitted that while in re-enacting similar provisions of Section 66(7), in Section 265 the legislature must be regarded as intending the same meaning to the parimateria expression in the 1961 Act. For this reliance was placed on the observations of House of Lords in the case of *Barras* v. *Aberdeen Steam Trawling and Fishing Co. Ltd.* [1933 All ER 52 : 1933 AC 402] where it was held that once certain words in an Act of Parliament had received a judicial construction in one of the superior courts, and the legislature repeated these without any alteration in a subsequent statute, the legislature must be taken to have used them according to the meaning which a court of competent jurisdiction had given to them. Lord Macmillan however observed that this rule of interpretation afforded only a valuable presumption as to the meaning of the language employed in a statute. Where a judicial interpretation is well settled and well recognised the rule ought, doubtless, to receive effect, but it must be a question of circumstances whether Parliament was to be presumed to have tacitly**

given statutory authority to a single judgment of a competent court so as to render that judgment, however obviously wrong, unexaminable by the highest court.

37. Therefore, in this case only solitary decision of the Andhra Pradesh High Court which was not in all subsequent cases followed and which in a way was contrary to several decisions of the other High Courts as well as this Court cannot be said to have received parliamentary acceptance. The attention of the Andhra Pradesh High Court was not drawn to the decision of this Court in *Seth PremchandSatramdas* v. *State of Bihar* [1950 SCC 728: AIR 1951 SC 14: 1950 SCR 799: (1951) 19 ITR 108] where dealing with the nature of the jurisdiction of the courts in reference matters under Sales Tax Act this Court observed that the High Court acquired jurisdiction to deal with the case by virtue of an express provision of the Bihar Sales Tax Act. Jurisdiction was only consultative neither original nor appellate."

50.1. Later, in the case of **KESHAVJI RAVJI AND COMPANY v. COMMISSIONER OF INCOME TAX**[18] the Apex Court has held as follows:

"…. …. ….

11. The premise of the argument is good in parts; but the inference does not logically follow. Section 40(*b*), it is true, seeks to prevent the evasion of tax by diversion of the profits of a firm; but the legislative expedience adopted to achieve that objective requires to be given effect on its own language. Section 40 opens with the non-obstante clause and directs that certain outgoings specifically enumerated in it "shall not be deducted" in computing the income chargeable under the head "profits and gains of business or profession". As long as there is no ambiguity in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible. The supposed intention of the legislature cannot then be appealed to to whittle down the statutory language

[18] **(1990) 2 SCC 231**

which is otherwise unambiguous. If the intendment is not in the words used it is nowhere else. The need for interpretation arises when the words used in the statute are, on their own terms, ambivalent and do not manifest the intention of the legislature. In *Doypack Systems Pvt. Ltd.* v. *Union of India* [(1988) 2 SCC 299: (1988) 2 SCR 962] it was observed: (SCC pp. 331-32, paras 58 and 59)

> "The words in the statute must, prima facie, be given their ordinary meanings. Where the grammatical construction is clear and manifest and without doubt, that construction ought to prevail unless there are some strong and obvious reasons to the contrary...."
>
> **"It has to be reiterated that the object of interpretation of a statute is to discover the intention of the Parliament as expressed in the Act. The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute, considering it as a whole and in its context. *That intention, and therefore the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous, be applied as they stand*."**
>
> (emphasis supplied)

…. …. ….

15. The submissions of Sri Ramachandran on the point are that where the meaning of a word used in a statute had been judicially ascertained by a court and where the legislature, while re-enacting the law on the subject, uses the same word, it must be taken to have been aware of the meaning so judicially ascertained earlier and not to have used the word with a different content. This is, no doubt, a well recognised guide to construction. When words acquire a particular meaning or sense because of their authoritative construction by superior courts, they are presumed to have been used in the same sense when used in a subsequent legislation in the same or similar context. This principle was stated by the Judicial Committee in *H.H. Ruckmaboye* v. *Lulloobhoy Mottichund* [5 Moo IA 234, 250: 8 Moo PC 4] thus:

> "....it is, therefore, of considerable importance to ascertain what has been deemed to be the legal import and meaning of them, because, if it shall appear that they have long been used, in a sense which may not improperly be called technical, and have been judicially construed to have a certain meaning, and have been adopted by the legislature in that sense, long prior to the statute, 21 James I., c. 16, the rule of construction of statutes will require, that the words in the statute should be construed according to the sense in which they had been so previously used, although that sense may vary from the strict literal meaning of them."

This principle has been reiterated by this Court in several pronouncements. But the limitations of its application in the present cases arise out of the circumstance that the decision of the Allahabad High Court in *Sri Ram Mahadeo Prasad* v. *CIT* [(1953) 24 ITR 176 (All)] did not proceed or rest on any special or technical connotation of the word "interest" nor any special legal sense which that word could be said to have acquired by the earlier judicial ascertainment of its amplitude. The decision proceeded on a construction of the relevant provision i.e. Section 10(4)(*b*) of the 1922 Act and on what the High Court considered as affording to the assessee a fair treatment. Nothing particular stemmed from the interpretation of the expression "interest". The appeal to this principle of construction is, in our opinion, somewhat out of place in this case. The rules of interpretation are not rules of law; they are mere aids to construction and constitute some broad pointers. The interpretative criteria apposite in a given situation may, by themselves, be mutually irreconcilable. It is the task of the court to decide which one, in the light to all relevant circumstances, ought to prevail. The rules of interpretation are useful servants but quite often tend to become difficult masters. It is appropriate to recall the words of Lord Reid in *Maunsell* v. *Olins* [(1975) 1 All ER 16] :

> "Then rules of construction are relied on. They are not rules in the ordinary sense of having some binding force. They are our servants not our masters. They are aids to construction, presumptions or pointers. Not infrequently one 'rule' points in one direction, another in a different direction. In each case we must

> look at all relevant circumstances and decide as a matter of judgment what weight to attach to any particular 'rule'."

This passage was referred to with approval by this Court in *Utkal Contractors and Joinery (P) Ltd.* v. *State of Orissa* [(1987) 3 SCC 279, 290 (para 13): (1987) 3 SCR 317, 330]."

50.2. In the case of **SHREE BHAGWATI STEEL ROLLING MILLS v. COMMISSIONER OF CENTRAL EXCISE**[19]**,** the Apex Court has held as follows:

"…. …. ….

21. It is settled law that Parliament is presumed to know the law when it enacts a particular piece of legislation. The Prevention of Corruption Act was passed in the year 1988, that is long after 1969 when the Constitution Bench decision in *Rayala Corpn.* [*Rayala Corpn. (P) Ltd.* v. *Director of Enforcement*, (1969) 2 SCC 412] had been delivered. It is, therefore, presumed that Parliament enacted Section 31 knowing that the decision in *Rayala Corpn.* [*Rayala Corpn. (P) Ltd.* v. *Director of Enforcement*, (1969) 2 SCC 412] had stated that an omission would not amount to a repeal and it is for this reason that Section 31 was enacted. This again does not take us further as this statement of the law in *Rayala Corpn.* [*Rayala Corpn. (P) Ltd.* v. *Director of Enforcement*, (1969) 2 SCC 412] is no longer the law declared by the Supreme Court after the decision in *Fibre Board case* [*Fibre Boards (P) Ltd.* v. *CIT*, (2015) 10 SCC 333: (2015) 376 ITR 596]. This reason therefore again cannot avail the appellant."

(Emphasis supplied at each instance)

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[19] (2016) 3 SCC 643

In the light of the authoritative exposition of law by the Apex Court noticed *supra*, acceptance of the submission advanced by the learned senior counsel for the respondent would inevitably lead to a consequence which the canons of statutory interpretation forbid—it would render Section 106 of the BNSS substantially redundant and denude it of the very efficacy which the Parliament consciously preserved while transplanting Section 102 of the Cr.P.C. into the new procedural regime. **An interpretative exercise that breathes life into one provision by suffocating another is one that this Court would never undertake.** The task of the Court is to harmonise provisions and permit each to operate within its ordained sphere, not to enlarge one until the other disappears from the statute book.

51. Viewed thus, the submissions advanced by the learned State Public Prosecutor-1 Sri B N Jagadeesha and particularly the learned *Amicus Curiae-* Sri Angad Kamath commend acceptance, both on principle and on the architecture of the statute. They preserve the independent fields occupied by Sections 106 and 107 of the BNSS; they remain faithful to the jurisprudence that had

crystallised around Section 102 of the Cr.P.C.; and they accord with the practical necessities of an effective criminal investigation. On the scales of statutory interpretation, precedent and practical consequence, their submissions far outweigh the construction canvassed by the learned senior counsel Sandesh Chouta for the respondent.

52. The contention of the learned senior counsel for the respondent, Sri Sandesh J. Chouta, therefore, **tumbles down under the weight of the statutory text, binding precedent, legislative intendment and the inevitable consequences of the interpretation canvassed**. The irresistible conclusion is that debit freezing of a bank account, when resorted to as an investigative and preservative measure, remains within the fold of Section 106 of the BNSS, subject to scrupulous compliance with the mandate of sub-section (3) thereof. It does not, merely by reason of being a debit freeze, metamorphose into an attachment under Section 107 requiring prior judicial imprimatur.

53. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petitions are **allowed.**

(ii) The orders dated 04-04-2026 passed on I.A.Nos.I, II and III by the Principal City Civil and Sessions Judge, Bengaluru in Crime No.25 of 2026 stand quashed.

(iii) Interim order dated 27-04-2026 *supra,* would continue to operate.

Ordered accordingly.

Pending applications, if any, also stand disposed as a consequence.

This Court places on record its profound appreciation for the assistance rendered by the learned *Amicus Curiae*, Sri Angad Kamath.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp/CT:MJ