IN THE COURT OF JUDICIAL MAGISTRATE NO.1, POONAMALLEE

PRESENT: Tmt.M.AMUDHA, B.A.,B.L(Hons).,L.L.M.,

Judicial Magistrate No.1, Poonamallee

Cr.M.P No. 2186 of 2025

Thursday, the 24th day of November 2025

M/s, Payanam,
Rep. By its Sole proprietor,
Mrs.Deepthi Laxmi, Age-31,
W/o Arunkumar.J ...Petitioner/Defacto Complainant

..Vs..

State Rep. By Inspector of Police

CCD I Avadi Police Station.

Cr. No.107/2025 ...1st Respondent/Complainant

1. The Branch Manager,

Kotak Mahindra Bank,

Shop No. 6 & 7, Ground floor,

Sri Swami Samarth Complex (Alai Plaza),

Malefaon Road, Near Market, Satana Nashik,

Maharashtra – 423 301.

2. The Manager,

Axis bank,

Plu5, Pu Bloack,

Pitampura, Delhi – 110 088 ...2nd Respondent

This petition came up before me for final hearing on this day in the presence of Thiru. G.Aunprasath, N.Thamizhanban, M.Pandiselvan, A.Suseendram, J.Danielpathiyanathan,Advocate for the Petitioner/Accused, M/s Bency Switesingh Dhas, Advocate for Respondent 2 side and the Assistant Public Prosecutor Grade-I appearing for the Respondent/Complainant and upon perusal of records and hearing the arguments of both sides, this court delivers the following:

ORDER

1. This petition is filed under section 497 r/w 503 of BNSS seeking return of money freezed in Cr.No.107/2025 to a sum of Rs.4,69,010/-

2. Notice issued to the respondent police Bank and prosecution. Police reply received.

3. The Learned counsel for the petitioner contended through his petition that he had transacted a sum of Rs.1,35,00,000/- from his savings accounts to the accused accounts. In support of the same

he also filed the Bank statement. The petitioner realised that he was cheated by the fraudsters and he lodged complaint with the police and case was registered in Cr.No.107/2025. During investigation the respondent police had freezed his accounts as mentioned below the table utilized by accused for commiting the offence. The petitioner contended that he is the absolute owner and rightful person to claim the above amount. The Petitioner undertakes to produce the above said sum whenever required by the court.

4. On the prosecution side, reply was filed stating that a sum of Rs.1,69,010/- could be given to the petitioner from and out of available balance to a tune of Rs.1,69,010/- as per the statement of available balance in the fraudsters account allegedly involved in cheating submitted by the proseuction on 05.11.2025 along with a mail communication from the concerned bank.

5. However as per records the petitioner is seen to have been cheated with a total sum of Rs.1,35,00,000/- sent to accused account from his Bank accounts. As per the clarification submitted on the side of prosecution Rs.1,69,010/- is only available in accused accounts as mentioned below the table. This court can very well infer from the transactions made by the petitioner that the amount has been credited to the fraudster account and the bank has not reported that lien is raised in the said account. Hence the notice to the account holder is dispensed in this case since there is possibility of rendering the account with nil balance and the same would affect the interest of justice of the petitioner

6. Further from the records it prima facie appears that the petitioner has seen cheated by unknown persons by offering online trading. The investigating authority has freezed the amounts in accused bank account in which the petitioner was made to transact the amount. However when clarification was sought on the investigating officer to produce the actual available balance in the respective transacted accounts the investigation officer clarified that a sum of Rs.1,69,010/- is available in the account transacted by the petitioner, though the petitioner has alleged to have lost a sum of Rs.1,35,00,000/- in from this account to the fradulent account. The II Respondent bank side has responded that there are numerous orders pending compliance in respect of the present fraudster account and has without applying its mind sought for dismissed and have not stated actual balance available in the counter.

Victim account details	Frozen bank account in which claim is raised	Amount sent by petitioner/victim	Available balance in the freezed account	Refundable amount
ICICI Bank A/c. No. 190105000847	Kotak Mahindra Bank A/c.No. 4650914618.	Rs.12,00,000/-	Rs.1,69,010/-	Rs.1,69,010/-

	Layer-2: Axis bank, A/c. No. 923020063360897, Rs.3,50,000/-	Layer-1: Yes Bank, A/c.no. 025861900001066, Rs. 3,00,000	Rs.12,50,814/-	Rs. 3,00,000/-
			Total	Rs.4,69,010/-

7. This court also finds that in the course of investigation the investigating authority has freezed the accounts and made seizure as per section 102 of CrPC. It has been settled that the bank account is a property within the meaning of section 102(1) CrPC and the investigating officer can seize the same in the course of investigation as per section 102 CrPC. The police officer is bound to intimate the seizure immediately as per section 102(3) CrPC. In the present case the seizure has been intimated to the court though not immediately. It is seen that entire sum is available after freezing of the account in respect of the corresponding transacted bank accounts.

8. The respondent police had also stated that the claim of the petitioner is Genuine and as per the investigating agency there are several claims as against the above amount since the account is reported to have been used for committing fraud against several persons. On perusal of records there is prima facie evidence to indicate that Rs.12,00,000/- is transacted into the above frozen account this court is of the considered view that the said amount should be returned to the petitioner in the order of precedence against the lien if any raised in the account. Further at this stage this court finds that since it is not possible to ascertain as to whether the said sum was reversed to the petitioner's account when the petitioner has while lodging complaint stated that some sums were returned and that the above sum was not returned. If there is such reversal/return received from the above account and there is any claim over the same by the third party the same shall be decided in separate application which the petitioner is bound to comply.

9. Accordingly this court directs the investigating officer, the respondent police herein to take necessary steps to defreeze the account and reverse the transaction and the available sum to a tune of Rs.4,69,010/- to be directly paid to the petitioner bank account namely IndusInd Bank bearing ICICI Bank, A/c. No.190105000847 – Rs.1,69,010/- and Axis Bank, A/c.No. 923020063360897 – Rs.3,00,000/-towards interim custody. Accordingly the petitioner is hereby directed to execute indemnity bond for a sum of Rs.4,69,010/- (Four Lakh Sixty Nine Thousand and Ten Rupees Only) against any third party claim along with an undertaking to deposit the said amount as and when directed by this court.

10. In result the petition is allowed.

Pronounced by me in the open court on 24th day of November 2025.

Sdx/- Tmt.M.Amudha
Judicial Magistrate No.1
Poonamallee