JUDGMENT CRMAJ NO.6307 OF 2026

GJVD021365432026

सत्यमेव जयते

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IN THE COURT OF 15TH ADDL. CHIEF JUDI. MAGISTRATE, AT VADODARA.

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CRIMINAL MISC. APPLICATION NO.6307 OF 2026

EXH.5

APPLICANT :

Naresh Dwarkadas Suhanda,

Aged Adult, Male, Occupation : Business,

Residing at : A-102 SKy Harmony,

Dena Harni Road,

Airport Harni,

Vadodara-390022.

VERSUS

OPPONENT :

The State of Gujarat

Through : Investigating Officer,

Cyber Crime Police Station,

Vadodara.

SUBJECT : APPLICATION UNDER SECTIONS 497 AND 503 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 FOR RELEASE OF FROZEN FUNDS IN LINKED BANK ACCOUNTS.

ADVOCATES :

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LD. ADVOCATE MR. A. R. PATEL, FOR THE APPLICANT.

LD. A.P.P. MS. R. A. SONI, FOR THE OPPONENT.

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:~: J U D G M E N T :~:

[1] The applicant has filed a present application under Section 497 and 503 of the BNSS, 2023 to release the muddamal amount of **Rs.9,57,800/-.**

[2] The brief fact of the application is that the applicant is a victim of cybercrime and without his consent, a substantial amount of **Rs.52,95,665/-** was debited from his bank accounts, therefore, he logged a complaint on the cybercrime portal vide Application **No.108/2026 (**Acknowledgment / Ticket / Inward **No.31104260085338)** and informed about the offence and provided his bank details to the investigation officer. Upon receiving the complaint, the Investigation Officer frozen the bank accounts as mentioned in his application vide details of frozen bank accounts, in which, the total amount of **Rs.9,57,800/-** was frozen and the applicant claimed the said amount of **Rs.9,57,800/-** i.e. amount of fraud and the other side, no one claiming the frozen account.

[3] Heard Ld. Advocate for the applicant at length. He submitted that the Applicant is victim of cybercrime and the Investigating Officer seized the bank account in which the amount of victim was transferred and therefore, he has requested to release the frozen money to his bank account. On the other side learned A.P.P. requested to pass an appropriate order.

[4] Further, no other person has claimed the said amount till date. If the principal amount remains in the bank for a long time, the Applicant may face a financial crisis and will suffer a lot of inconvenience due to not being able to use the principal money. So, the Applicant has demanded to return the amount in question to him.

[5] Upon receipt of the instant application, opinion of the concerned Police Station has been sought for in this case. According to the opinion of the Investigating Officer, the police have seized the amount in question based on the complaint of the Applicant. The account holder or any other person has not raised any objection regarding the seizure of the bank account containing the amount, stating that the seized account is found to be fake and has given an opinion to hand over the claimed amount to the Applicant.

[6] Considering the opinion of the Investigating Officer and the documents submitted, it is contended that the money of the victim of cybercrime is transferred online, the money of the victim of cybercrime is immediately stopped by the concerned police station to stop such money and prevent the crime. The present Applicant informed concerned police about cybercrime committed. Based on the application, the money transferred from the above account of the Applicant by the concerned police station to bank account of the suspect banks, whose bank accounts have been frozen as per section 106 of the BNSS, 2023.

[7] Considering the copies of bank papers submitted along with the said application and the opinion expressed by the Investigating Officer and the documents, it is clear at this stage that the money has been withdrawn from the accounts mentioned in the Applicant's application and transferred to the suspect bank accounts. Moreover, considering the facts on record, no FIR has been filed till date in the present case. It does not appear that anyone has been arrested in connection with the incident or in the present case and even though such a long period of time has passed since the incident, till date no one other than the Applicant has filed any application before this Court demanding the above amount. No one seems to have demanded this money before and the Investigating Officer has stated that the bank accounts are fake and after seizing the accounts, the owner or any other person has not raised any objection before the police about seizing the account. So the Investigating Officer has given a clear opinion to return the said money to the Applicant. Therefore, this Court is of the opinion that the Applicant is entitled to take possession of the money.

[8] At this stage it is required to look into the Section 503(1) of the BNSS, 2023, where seizure of property by any police officer is reported to the Magistrate and such property has not been produced before the Court during the investigation, the Magistrate has the power to make such order for disposal or possession of such property as he thinks fit.

[9] In the matter between ***State of Maharashtra Vs D Neogy***. Hon'ble Apex Court has held that the bank account of the accused or any of his relation is property within the meaning of Section 102 of the Criminal procedure Code (Section 106 of the BNSS, 2023) and a police officer in course of investigation can seize or prohibit the operation of the bank account if such assets direct link with the commission of the offence for which the police officer is investigating into.

[10] In the matter between the ***State of Maharashtra Versus Tapas D Neogy***, Criminal Application No.947/1999 of Hon'ble Apex court indirectly says that a Magistrate has power under Section 457 of Cr P C. (Section 503 of BNSS).

[11] In the matter between ***Bhavesh Bhai Dahyabhai Modi Vs State of Gujarat.*** Special Criminal Application No.196/2017. Hon'ble High Court of Gujarat has referred the judgment of Hon'ble High Court of Delhi in the case between Ms Swaran Sabharwal Vs. Commissioner of Police reported in 1988 Criminal Law General 241(1) the Division Bench of Hon'ble Delhi High Court examined the question whether bank account can be held to be 'property' within the meaning of Section 102 of the Cr.P.C.

[12] The Hon'ble Apex Court in case of **Sunderbhai Ambalal Desai State of Gujarat (AIR 2003 SC 638)** has expressed its view, directing the procedure for handing over currency notes, which is as follows :

> ***Valuable Articles and Currency Notes***
> ***11.*** *With regard to valuable articles, such as golden or sliver ornaments or articles studded with precious stones,*

> *it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest.*
>
> ***12**. For this purposes, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:-*
>
> *(1) preparing detailed proper panchanama of such articles:*
>
> *(2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and*
>
> *(3) after taking proper security."*

[13] The power under Section 451 of Cr.P.C. should be exercised expeditiously and judiciously, which clearly empowers the Court to order for proper custody of the articles or property pending conclusion of the trial, as owner of the article would not suffer because of its remaining unused or its misappropriation. The Court or the police would not be required to keep the article in safe custody and if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the Court during the trial.

[14] Considering the factual aspects of the case and the principle rendered in Sunderbhai Ambalal Desai's case (supra), this Court is of the considered opinion that the custody of the cash, if granted in favour of the Applicant, no prejudice is likely to be caused to any person. For the reasons stated above, the present application seems fit to be allowed in the interest of justice, hence, following Order is passed :

:~: O R D E R :~:

This application is hereby **ALLOWED**, subject to the following conditions :-

1) **Release of Seized Funds :**

- The Muddamal amount of **Rs.9,57,800/-** out of the amount seized by Cyber Crime Police Station, Vadodara City in connection with **Cyber National Portal Application No.108/2026 (**Acknowledgment / Ticket / Inward **No.31104260085338)** which are frozen amount in bank accounts as mentioned in his application vide details of frozen bank accounts, in which the total amount of **Rs.9,57,800/-** frozen/seized amounts are hereby **ordered to be released** to the Applicant - **Naresh Dwarkadas Suhanda** in his bank account as **interim custody** pending final disposal of this case.

2) **Security and undertaking:**

- The Applicant shall furnish, by way of security, a bond amounting to the seized amount and also provide a surety of equivalent value.
- The Applicant shall further file an undertaking to produce the aforementioned amount as and when directed by this court.
- The Applicant shall appear before the I.O. as and when called for and cooperate with the investigation.
- Upon receiving the bond and surety, the police officer shall immediately inform concerned Bank to comply with this order.

3) **Bank Instructions :**

- The police officer shall **inform concerned Banks** to comply with this order and transfer the frozen amount of **Rs.9,57,800/-** to the Applicant's **HDFC Bank A/c No.02751000010963, IFSC : HDFC0000275** within **10 days** of receiving this order.

- It is further directed that in the event of **non-compliance of this Order**, the responsible officer(s) of the concerned Bank shall render themselves liable for initiation of **Contempt of Court proceedings** for willful disobedience of the directions of this Court, apart from any other action permissible under the law.

- **Recognizing** that instances may arise where the available funds in the frozen account referenced in this order are less then the total amount specified for release. In such cases, the concerned bank is hereby directed to transfer the **available balance** in the frozen account to the Applicant's account and in case when the frozen account contains various liens and debit freeze from various statutory authorities and one or more courts have issued order for release funds from freezed account to different victims of cyber crime, in that situation, the concerned bank may not request a revised order from this court and release the available funds of frozen account to Applicant's bank account on a pro-rata basis means the amount proportionately attributable to the Applicant's verified claim from the funds lying under freeze / lien in the subject bank account of concerned bank. The respective bank shall release and remit the said proportionate amount to the Applicant's subject to verification and subject to any subsisting order of competent courts or authorities.

4) **Compliance Report :**

- The concerned bank shall submit a **compliance report** to this court and the police station within **10 days** of transferring the funds.

5) **Communication of Order :**

- The Registry shall communicate this order to the concerned police station for immediate compliance.

Signed and pronounced in the open Court today on this 14th day of August, 2026 at Vadodara.

Date : 14/08/2026
Place : Vadodara.

[S. M. MISHRA]
15th Addl. Chief Judl. Magistrate,
Vadodara.
(Judge Code No.GJ01248)

/P.A.Jansari/

Digitally signed by
PARTH ASHOKKUMAR JANSARI
on 14/08/2026 18:20:36 IST.