GJBH010020002025

IN THE COURT OF 2ND ADDITIONAL DISTRICT AND SESSIONS JUDGE, BHARUCH.

सत्यमेव जयते

Criminal Revision Application No. 63 of 2025

Exh. ______

Petitioner...

Axis Bank Ltd. (Giridh Branch)
Brahch ID: 635, Giridh, Jharkhand,
Raja Bangla, Main Road, Giridh 815,
301, Jharkhand.
Through its Branch Head- Ritish Kumar Jha.

Versus.

Opponents...

1. State of Gujarat.

2. Narendrasinh Arjunsinh Gadhvi.
Gadhvi Faliyu,
Dahej Branch oppo. Shaligram Complex.

Appearance:-

Ld. Advocate for the petitioner: Mr.A.V.Kamabhata.
Ld. advocate for the opponent no.1: Mr. M.G.Rathod.
And Ld. advocate for the opponent no.2(original Complainant): Mr.A.G.Patel.

ORDER

(1) Present revision application has been filed by Axis Bank Ltd. (Giridh Branch) against the order of the Ld. Chief Judicial Magistrate dated 14/09/2024 passed in Criminal Misc. Application No.1271/2024 below Exh.3, which was filed under Section 451 of CrPC.

(2) The facts of the case is that, the application was filed before the Ld. Chief Judicial Magistrate- Bharuch by opponent no.2 i.e., Narendrasinh Arjunsinh Gadhvi (original applicant of Criminal Misc. Application No.1271/2024 befor the Ld. Trial Court) to release the amount which was freezed by the Police/Cyber Crime Unit. The Opponent no.2 was a victim of cyber fraud and the applicant(opponent no.2) took help of Cyber Crime Unit and the amount which was transferred from his account was freezed by the Cyber Crime Unit, the details of the freezed amount is stated below.

Sr. No.	Bank Name	Bank Details of Suspicious Person ACCOUNT NO.	Suspicious IFSC CODE/BRANCH CODE	Freezed Amount
1	AXIS BANK	923010039529597	UTIB0000635	53180

(3) Considering the facts, opinion of the Competent Authority i.e., Police and the fact that none came before the Ld. Chief Judicial Magistrate for releasing the freezed amount except the applicant, as well as by considering the judgements of Sundarlal Ambalal Desai Vs. State of Gujarat, the application was allowed by the Ld. Chief Judicial Magistrate, the order of Ld. Chief Judicial Magistrate is reiterated below.

FINAL ORDER

The application u/S. 503 of the BNS is hereby allowed. The amount held in the bank seized in connection with the above offense is ordered to be returned to the applicant appearing in interim custody on furnishing a surety and personal bond of one and half of the amount seized in the concerned police station. Subject to the following conditions and till the final disposal of the case.

It is further ordered that, as per the order of the court, the below mentioned concerned banks shall defreeze the amount and release the said amount in the State Bank of India- Bank Account Number. 300510110002528 IFSC code:- BKID0003005 of complainant- Narendrasinh Arjunsinh Gadhvi *and submit the report to the Court. The Bank is directed to inform the Court and the concerned Police Station about the compliance of the order within 10 days after* *receiving the information of the court order.*

Sr. No.	BANK NAME	ACCOUNT NO.	IFSC CODE	RELEASE AMOUNT RS.
1	AXIS Bank	923010039529597	UTIB0000635	53180

<u>Terms</u>

1. The applicant will have to produce the said amount before this Hon'ble Court when Court ordered it.

2. If the above mentioned account holder or any other person made claims about the said amount and proves his interest, in that circumstances, the applicant will have to return the said amount.

3. The applicant shall not transfer the said muddamal cash amount to anyone else as a mortgage, gift or in any way until the final disposal of this case.

4. The said muddamal amount should not be used or allowed to be used for any criminal purpose.

5. In the event of breach of any of the condition, the interim order stands automatically *cancelled and the muddamal amount shall be confiscated again and the surety and amount of bail bond shall be recovered.*

This order is pronounced in today special sitting of Magistrate in open Court and duly read and signed.

Place: Bharuch. *(M.M.Saiyed)*
Date: 14/09/2024 *Chief Judicial Magistrate,*
Bharuch.

(4) Now, the said order is under challenge by way of this revision application filed by the Axis Bank Branch.

(5) This Court has issued notice to other side, the Ld. advocate had appeared on behalf of respondent no.2(original applicant), the Ld. APP has appeared on behalf of respondent no.1 i.e., State of Gujarat. This Court has heard both the side and considered the record.

(6) The Ld. Advocate for the applicant had mainly submitted as per his application, further it is submitted that, the Ld.Chief Judicial Magistrate and Police Agency have violated the principle of natural justice, the Ld. Chief Judicial Magistrate had not issued any notice to the Axis Bank and allow them to submit the relevant documents and no opportunity was given for hearing to the Axis Bank and hence, the order of the Ld. Chief Judicial Magistrate is illegal and against the principle of natural justice. under such circumstances the bank was required to be heard, but opportunity was not given by the Ld. Magistrate Court and thus error has been committed and the order passed by the Ld. Chief Judicial Magistarte is illegal and the same is required to be rectified.

(6.1) The Ld. advocate has relied on the judgement of (1) Rajput Vijaysinh Natwarsinh Vs. State of Gujarat, Criminal Appeal No. _____of 2025 (Arising ouit of SLP(Criminal) No.3179 of 2025 (2) Writ petition No. 2865 of 2022(GM-RES) High Court of Karnataka, Sri Rahul Chari & 1 **Vs.** State of Karnataka & others is also mentioned in the petition. It is further submitted that, being a third party the bank can also can file revision application, even if, it was not a party before the Ld. Chief Judicial Magistrate Court.

(7) On the other side, the Ld. APP appearing on behalf of respondent no. 1- the State has submitted that the order of the Ld. Trial Court order is proper, after considering the report of the Investigating Officer the order passed by the Ld. Chief Judicial Magistrate is purely interlocutory order and no revision is maintainable against such order as per law. It is also submitted that the present petitioner i.e., Axis Bank Ltd., was not a party before the Ld. Chief Judicial Magistrate Court, hence, have no right to file a revision application, It is submitted that the order of Ld. Chief Judicial Magistrate is interlocutory in nature, its conditional order and separate application by the applicant/bank can be filed before the Ld. Chief Judicial Magistrate but they have directly approached before this Court by way of revision which is not tenable.

It is also submitted that the application was filed by delay. It is submitted that the Petitioner Bank was custodian of the amount of the applicant and has to obey the order passed by the the Ld. Court. Further, it is submitted that the Ld. Trial Court has imposed appropriate conditions for securing the amount if required in future. Hence, the applicant/bank has no right for filing such revision application and as the application is not maintainable, same is required to be dismissed and under the said circumstances the judgements relied upon by the bank would not be helpfull to them.

(8) Before, further discussion, it is required to refer the undisputed facts on record which are mentioned below.

i. The petitioner is having his account in Bank of India A/c No. 300510110002528 from which the amount was debited and online complaint was given vide acknowledgement No.31110230135139, for which there is no dispute, the details are provided in the application filed before the Ld. Magistrate Court .

ii. The applicant is a victim of cyber fraud as per her application and the amount stated in the complaint had been debited .

iii. Axis Bank Ltd. i.e the present applicant was not a party before the Ld. Chief Judicial Magistrate in Criminal Misc. Application No. 1271/2024.

iv. The fraud has been committed, the amount of the applicant has been withdrawn and as transferred from the complainant's bank account to fraudster beneficiary account.

(9) After considering the above undisputed fact, now, coming to the discussion of issue on hand this Court has referred the order of the Ld. Trial Court.

(9.1) The Ld. Chief Judical Magistarte Court has very categorically mentioned in its order that, *the amount shall be returned to the present applicant as <u>interim custody, on furnishing surety and personal bond of one and a half sum of seized amount in concerned police station.</u> subject to the following conditions and till the final disposal of the case.*

(9.2) The Ld. Chief Judicial Magistrate has also imposed the conditions, according to which..

> *1. The applicant will have to produce the said amount before this Hon'ble Court when Court ordered it.*
>
> *2. If the above mentioned account holder or any other person made claims about the said amount and proves his interest, in that circumstances, the applicant will have to return the said amount.*
>
> *3. The applicant shall not transfer the said muddamal cash amount to anyone else as a mortgage, gift or in any way until the final disposal of this case.*
>
> *4. The said muddamal amount should not be used or allowed to be used for any criminal purpose.*
>
> *5. In the event of breach of any of the condition, the interim order stands automatically cancelled and the*

muddamal amount shall be confiscated again and the surety and amount of bail bond shall be recovered.

(9.3) Hence, what appears from the order of the Ld. Chief Judical Magistarte Court is that, the custody of the amount is interim custody and the order passed below Exh.3 is purely interlocutory order.

(10) At this juncture, Section 438 of the BNSS 2023 is required to be referred which is reiterated below.

<u>Section 438 in Bharatiya Nagarik Suraksha Sanhita, 2023</u>

Calling for records to exercise powers of revision.....

a. The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond or bail bond pending the examination of the record.

<u>Explanation</u>: All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of Section

439.

b. *The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.*

c. If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

(11) It is specifically stated in the provision above that the power of revision shall not to be exercised in relation to interlocutory order.

(12) In the case of **Poonam Chand Jain Vs. Fazru, reported in AIR 2005 SC 38, Hon'ble Supreme Court** has observed that...

> "Wharton's Law Lexicon 14th Edition Page 529 defines Interlocutory order thus, "an Interlocutory Order" or judgement is one made or given during the progress of an action, but which does not finally dispose of the rights of parties." "... summing up the natural and logical meaning of the interlocutory order, the conclusion is inescapable that an order which does not terminate the proceedings or finally decides the rights of the parties is only in interlocutory order. In other words, in an ordinary sense of the term, the interlocutory order is one which only decides a particular aspect or a particular

issue or a particular manner in a proceeding, suit or trial but which does not however conclude the term at all.”

(13) So far, the present application is concerned, the order passed below Exh.3 by the Ld. Chief Judicial Magistrae is an interlocutory, it is of purely interim/ temporary nature, which do not decide or touch upon the important rights or liabilities of the parties. Hence, any order which substantially does not affect the right of the party could be an interlocutory order.

(13.1) The order passed by the Ld. Trial Court does not result in finalisation of the proceedings and the proceedings before the Ld. Trial Court would continue. The order passed by the Ld. Magistrate regarding the custody is merely the procedural order without affecting the rights of any party and therefore, it falls within the category of interlocutory order. Morover its not a case that some other party has claimed the amount.

(14) This Court has also considered Section 503 of the BNSS which runs as under.

Section 503. Procedure by police upon seizure of property.

(1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

(15) Referring the above provision of law, the Ld. Magistrate has discretion to make such order as he considered fit respecting the disposal of the property or the custody of such property to the person entitled to possession thereof.

(16) Apart from the above discussion, this Court has also taken note that the Ld. Magistrate Court has specifically imposed the conditions that if the account holder or any other person made claims about the said amount and proved his interest in that circumstances, the applicant will have to return the said amount.

(16.1) From the entire record it does not appears that the present applicant i.e., Axis Bank Ltd. (Giridh Branch) had made any claim about the amount stated in the application and had proved his interest.

(17) Hence, as discussed above, considering the facts and circumstances of the present case the order passed by the Ld. Chief Judicial Magistrate below Exh.3 and considering the provision of law discussed above as well as the judgement of the Hon’ble Supreme Court i.e., Sundarlal Ambalal Desai Vs. State of Gujarat the present application would not be maintainable. As discussed previously in the case on hand the petitioner bank is not claiming the amount, its not the case that the amount belongs to the Axis Bank, only the amount is transferred to the account maintained in Axis bank.

(18) In the case mentioned in the petition by the petitioner, i.e writ petition No.2865 of 2022 of the Honourable High Court of Karnataka at Banglore, wherein the Ld. Magistrate disposed of the application by issuing a direction to defreeze the account of 1st petitioner and transfer the amount of Rs.69,143/- from his personal account to the account of 2nd respiondent and after such transfer, the 1st petitioner came to know that the amounts have been debited from his personal account and sought details from the 4th respondent to whom the amount was transferred. It was then the 1st petitioner came to know that the amount has been transferred to the account of the 2nd respondent upon order passed by the Ld. Magistrate. Such is not the facts and circumstances in the case on hand, no accused is known in the said case.

(18.1) So far the case of, Rajput Vijaysinh Natwarsinh Vs. State of Gujarat, Criminal Appeal No. _____of 2025 (Arising ouit of SLP(Criminal) No.3179 of 2025 is concerned, It was a case of business transaction wherein the, dispute pertained to money paid to the complainant and other like firms, in the course of business. The appellant-accused ran a proprietary firm by the name of Jay Gopal Trading Company and had conducted business with the complainant worth Rs. 44,53,714/- in castor seeds on different dates and various cheques were given in respect of this amount were returned due to insufficient balance.

It was also alleged that the said Company had done business with other concerns totalling Rs.3,49,07,073/- (including the payment of the complainant) and had similarly not paid the amounts due. The police completed its investigation and presented chargesheet under Sections 406, 420 and 120-B of IPC and the investigating Officer has seized the above amount during the investigation as proceeds of crime money and no supporting evidence was produced on behalf of the applicant/accused by which it can be believed prima facie that the amount seized by the Investigating Agency was the amount prior to the occurrence of the offence. Moreover, the list of victims was very lengthy as stated by the complainant in the complaint, It was the subject matter of evidence as to who lost how much amount from amongst the victims. The appropriate ownership of the sum of money could only be determined after consideration of all evidence and having taken into account the claims and views of all the other persons that the appellant-accused has allegedly played foul with, in business. Therefore, it was held that releasing the muddamal would be unjustified and premature.

(18.2) In the case on hand, the facts and circumstances are not such. The Opponent no.2 herein, was a victim of cyber fraud and the applicant(opponent no.2) took help of Cyber Crime Unit and the amount which was transferred from his account was freezed by the Cyber Crime Unit and the order passed below Exh.3 by the Ld. Chief Judicial Magistrae is conditional, an interlocutory, it is of purely interim/temporary nature, which doesn't decide or touch upon the important rights or liabilities of the parties.

(18.3) More over alternative remedy would be available for the Axis Bank, Petitoner, considering the conditions imposed by the Ld. Chief Judicial Magistrate, while passing order for interim custody of the amount, hence the judgement relied upon would not be of much help to the petitioner, bank. Hence, as discussed above, no illegality or perversity appears in the order of Ld. Chief Magistrate Court- Bharuch, hence, following order.

ORDER

(1) The present Criminal Revision Application No.63 of 2025 is hereby **Dismissed.**

(2) No order as to cost.

Signed and pronounced in the open Court today on this 31st day of July, 2026.

Date : 31/07/2026 Place: Bharuch (KKC)	**Ejaz Mohsinali Shaikh.** 2nd Additional District & Sessions Judge Bharuch(GJ00627)