

**ORDER ON APPLICATION UNDER SECTION  
451 AND 457 OF Cr.P.C.**

The applicant–**Mohan B.M.** has filed application under section 451 and 457 Cr.PC seeking defreeze his account bearing No.0008053000022629 maintained in South Indian Bank, KG Road Branch, Bengaluru.

2. In the application he stated that during the investigation the investigating officer froze the said account of applicant. The applicant was having the transaction with H.B.Group company. Therefore, the Police have frozen the bank account of applicant stating that there is a transaction with accused. The defreezing account has been very much required for day to day transaction and to meet the financial commitments. He will ready to abide the conditions imposed by this court. Hence, prayed to allow the application.

3. The defacto complainant has filed objections to the said application, wherein he contended that admittedly the accused No.6 has admitted to be involved with the other accused in committing the above offences. The accused No.6 stated that he was in cahoots with the other accused, wherein they issued false audit reports and received excess funds from the complainant company. In this regard the accused No.6 created the account under the name HB Group with IDFC Bank, Sahakarnagar Branch, Bengaluru and received money from accused No.1 of Rs.2,36,00,000/- into the HB Group bank

account. The entries in the bank statement of HB Group with IDFC Bank, Sahakarnagar Branch, Bengaluru. It clearly shows amount transfer from account of accused persons to the applicant's account. There are no grounds to defreeze the accounts and the said amount belongs to the complainant. Hence, he prayed to reject the application.

4. Another applicant by name **Mohith Gowda.S S/o Suresh** has also filed application under section 451 and 457 Cr.PC seeking defreeze his account bearing No.920020060197736 maintained in the name of Hitha Buildcon in Axis Bank, New BEL Road Branch, Bengaluru.

5. In the application he stated that during the investigation the Police have freeze the said amount as there was transaction with accused No.1 to 6. The applicant has nothing to do with above case and also he was not in any way associated with any of the accused persons. The amount maintained in the account of applicant of Rs.27,99,500/- is not proceeds of the alleged crime. The applicant is a civil contractor out of his business transaction he maintained the above amount. The Police have not followed the provisions of section 102 of Cr.PC. The applicant has suffered a lot of financially due to the freezing of his bank account. If not allowed the application he will be put to great hardship and mental agony. Hence he prayed to allow the application.

6. Another applicant by name **Vinay Babu.V S/o Venugopal** has filed application under section 451 and 457 of

Cr.PC seeking defreeze his account bearing No.8113900439 maintained in Kotak Mahindra Bank, Sanjaynagar Branch, Bengaluru.

7. In the application he contended that during the investigation the investigating officer freeze the said account. It is savings bank account of accused No.4/applicant and he is authorized person to operate the said bank account. He has nothing to do with the above case and no way associated with other accused persons. A sum of Rs.6 lakhs had been transferred through RTGS from Avirley Commercials on 01.12.2022 to the bank account of applicant and Rs.5 lakhs had been transferred through RTGS from Prashanth Enterprises on 01.12.2022. The said amount transferred as a commission for having availed the services of the applicant with regard to purchase/sale of a property in respect of real estate business. The investigating officer illegally freeze the account. He has been suffering from lot of financially due to the freezing of his account. His mother is suffering with serious ailments and applicant has financial commitments.. Hence he prayed to defreeze the said account.

8. The accused No.4 also filed another application under section 451 and 457 of Cr.PC seeking defreeze his account bearing No.917020081077149 maintained in Axis Bank Ltd., New BEL Road Branch, Bengaluru.

9. In the application he reiterated the contents of another application and prayed to defreeze the above account

also.

10. The accused No.5 by name **Moon June Seok** has filed application under section 451 and 457 of Cr.PC seeking to release the property seized in PF No.2/2023 and PF No.3/2023 in Crime No.287/2023.

11. In the application he contended that during the investigation the investigating officer seized one grey colour Samsung Galaxy X21 mobile phone which belongs to the applicant and also seized cash of Rs.9,69,000/- from the applicant. As per the order of Hon'ble High Court of Karnataka in CrI.P.No.5599/2023 against the accused No.5 charge sheet has been quashed. Hence, he prayed to release the said amount and mobile phone to the applicant.

12. Another applicant by name **Sri Durga Gas Agency represented by C.Harish Kumar S/o Channappa** has also filed application under section 451 and 457 of Cr.PC seeking defreeze his account bearing No.37160200000049 maintained in Indian Overseas Bank, Yelahanka Branch.

13. In the application he is stated that during the investigation the investigating officer without any reason froze the account of applicant is diagnosed with mouth cancer and he is in very much required for the funds to meet his medical surgery and other day to day expenses and he is no way connected to the present case. Hence he prayed to defreeze the said account.

14. Another applicant by name **Praveen Kumar.M** has

also filed application under section 451 and 457 of Cr.PC seeking defreeze his account bearing No.918010055321267 maintained in Axis Bank, Kacharakannahalli Branch, Bengaluru.

15. In the application he is stated that during the investigation the investigating officer freezed the said account without any reason. The applicant has not connected or involved in the present alleged crime. Therefore, he prays to defreeze the said amount as it is very much necessary to his medical necessities and day to day expenses. Hence he prayed to defreeze the said account.

16. Mohith Gowda.S / accused No.4 who is also one of the applicant under section 451 and 457 of Cr.PC has filed objection to the application of defacto complainant, wherein he submitted that the said amount deposited in his account is not connected to the present case and the defacto complainant has not placed any materials to substantiate his claim. Hence he prayed to reject the application.

17. Vinay Babu.V has also filed objection to the application of defacto complainant, wherein he contended that an amount of Rs.30 lakhs transferred from Shrushti Construction to the Terminus Consulting Pvt. Ltd., by RTGS. The said amount not connected to the present case. The Shrushti Construction engaged in construction works. He had supplied materials and manpower i.e., labours. Therefore, they have transferred above amount. Therefore, the said amount not

connected to the present case. Defacto complainant has not placed any materials for his claim. Hence he prayed to reject the application of defacto complainant.

18. The IO also filed requisition that which may be released to the applicant by imposing conditions.

19. Heard both the sides and I have perused the materials available on record.

20. The point that arises for the consideration of the court is as under;

**1. Whether the applications filed by the applicants have made out any grounds to allow?**

**2. What order?**

21. Perused the records and I answered Point No.1 partly in the affirmative for the following:

**REASONS**

22. **Point No.1:** The PSI of Sanjay Nagar Police Station submitted the charge sheet to the court against accused No.1 to 5 for their alleged commission of offences punishable under section 406, 408, 409, 418, 420, 120-B R/w section 34 of IPC. As can be seen from column No.17 of the charge sheet the accused No.1 had opened an office in the name and style N.K & Associates and started his profession of Chartered Accountant. Although his registration of firm was invalid he was representing the customers that he was a Chartered Accountant. The accused No.1 in order to evade taxes started a firm in the name and style of Terminus Consulting Private

Limited and made accused No.3 and 4 as its Directors. The accused No.2 is the none other than the close friend and associate of accused No.1. The accused No.1 was a Chartered Accountant of Daechang Seat Automative Private Limited and whereas the accused No.2 was the Accounts Manager of the said Pvt Ltd. The accused No.1 to 5 in furtherance of their common intention to gain wrongfully caused loss to the said Pvt Ltd to the tune of Rs.9,62,80,189/- and thereby the accused have committed the above offences.

23. The accused No.5 by name **Moon June Seok** has approached Hon'ble High Court of Karnataka for quash the present case in CrI.P.No.5599/2023. The said Criminal Petition was allowed and the case against the accused No.5 quashed. Therefore, the accused No.5 is entitled for release cash amount of Rs.9,69,000/- reported in PF No.3/2023 subject to the conditions. Accordingly he is also entitled to interim custody of property seized and reported in PF No.2/2023 subject to the conditions.

24. In respect of applicant by name Mohan B.M is concerned, in this application he admitted that he has transaction with HB Group and the accused persons. He had given hand loan of Rs.25 lakhs to HB Group from his bank account and later the HB Group returned the said amount to his account. He further submitted that it is necessary to defreeze the account for his day to day transaction and to meet the financial commitments. The investigation officer not

specifically disclosed how much amount was transferred from accused to this applicant and he has not placed any reliable material to show that this applicant involved in this case. This applicant is neither witness nor accused in this case. In fact, there is no direct allegation against applicant by name Mohan B.M. in the crime. Since the bank account of applicant by name Mohan B.M. is to be defreezed. By considering the facts and circumstances the application of Mohan B.M. is liable to be allowed.

25. In respect of applicant by name Mohith Gowda S is concerned, in this application he admitted that he has transaction with accused persons. But he has nothing to do with the above case and he was not in any way associated with accused persons in this case. The amount of Rs.28 lakhs has been transferred through RTGS from Srushti Construction to his account. Therefore, his account has been freezed by IO. He further contended that he is civil contractor and it is a current account and it is necessary to him for his day to day transactions. The investigation officer not specifically disclosed how much amount was transferred from accused to this applicant and he has not placed any reliable material to show that this applicant involved in this case. This applicant is neither witness nor accused in this case. In fact, there is no direct allegation against applicant by name Mohith Gowda S in the crime. Since the bank account of applicant by name Mohith Gowda S is to be defreezed. By considering the facts

and circumstances the application of Mohith Gowda S is liable to be allowed.

26. In respect of applicant by name Vinay Babu.V who is accused No.4 in this case. The accused in his application contended that as on the date of defreeze he has balance in his account of Rs.11,02,937/-. The said account is not the proceeds of the alleged crime. Sum of Rs.6 lakhs had been transferred through RTGS from Avirley Commercials on 01.12.2022 and Rs.5 lakhs had been transferred through RTGS from Prashanth Enterprises on 01.12.2022.

27. Although, the investigation officer stating that crime amount transferred from accused No.1 to the account of Terminus Consulting Pvt. Ltd., bearing No.917020081077149 of Axis Bank. This applicant accused No.4 is the Director of the said Terminus Consulting Pvt. Ltd.,. Now the accused No.4 has been claiming defreeze his personal account maintained in Kotak Mahindra Bank bearing No.8113900439 for his day to day transactions. As per the prosecution case the amount has been not transferred to the personal account of accused No.4. The amount transferred to his company Terminus Consulting Pvt. Ltd., account. Therefore, on considering the facts subject to the conditions his account can be defreezed.

28. The accused No.4 also filed another application to defreeze the bank account maintained in Axis Bank bearing No.917020081077149 maintained in the name of Terminus Consulting Services Pvt. Ltd. It is specifically alleged that the

crime amount directly transferred to this account of accused No.4. The applicant/accused No.4 not explained for what purpose the said amount from accused No.1 transferred to him. The applicant contended that as on the date of the debit freeze of his said account Rs.30,11,207/- has been balanced.

29. The investigation officer stated that an amount of Rs.7,20,84,508/- has been transferred to this account from Indian Overseas Bank account of complainant for payment of GST. The accused No.4 also admitted that he has transaction with complainant. But accused No.4 not disclosed to whom he transferred the said money. There is serious allegation against accused No.4 about his active participation in the crime and with this account the accused No.4 transaction the crime money. Therefore, application is not liable to allow at this stage.

29. In respect of applicant by name **Sri Durga Gas Agency represented by C.Harish Kumar S/o Channappa** is concerned, in this application he submitted that he is the bonafide holder of the account bearing No.37160200000049 maintained in Indian Overseas Bank, Yelahanka Branch. It is necessary to defreeze the account for his diagnosed with mouth cancer medical surgery and other relevant day to day expenses. The investigation officer not specifically disclosed how much amount was transferred from accused to this applicant and he has not placed any reliable material to show that this applicant involved in this case. This applicant is neither witness nor accused in this case. In fact, there is no direct allegation

against applicant in the crime. Since the bank account of applicant is to be defreezed. By considering the facts and circumstances the application is liable to be allowed.

30. In respect of applicant by name Praveen Kumar .M is concerned, in his application he contended that the applicant was neither arrayed as accused involved in the case but the IO freeze the account. As per the materials on record the IO freezed his account bearing No.918010055321267 maintained in Axis Bank, Kacharakanahalli Branch, Bengaluru for the reason that the amount was transferred to this account from the accused persons. But the IO not disclosed how much amount transferred to this applicant account. In fact, there is no direct or indirect allegation against this applicant with regards to the commission of offence or involvement in this case. Since the bank account of this applicant has been debit freeze, he may not be able to make day to day transactions. By considering the facts and circumstances the application of this applicant Praveen Kumar M is liable to allow. Therefore, it is necessary to defreeze the accounts of applicants with imposing some conditions. Considering the facts and circumstances of the case if the applications of the applicants is allowed no hardship or injustice would be caused to complainant. However, keeping in view of the apprehension of learned Sr.APP necessary conditions can be imposed. Hence, I answered Point No.1 partly in the affirmative.

31. **Point No.2:** For the foregoing reasons I proceed to pass the following:

**ORDER**

**The application filed by the Mohan B.M. under section 451 and 457 Cr.PC bearing Account No.0008053000022629 maintained in South Indian Bank, KG Road Branch, Bengaluru is hereby ordered to defreeze with the execution of indemnity bond of Rs.2,99,788/- and with surety for like sum with the conditions.**

**The application filed by the Mohith Gowda.S S/o Suresh under section 451 and 457 Cr.PC bearing Account No.920020060197736 maintained in the name of Hitha Buildcon in Axis Bank, New BEL Road Branch, Bengaluru is hereby ordered to defreeze with the execution of indemnity bond of Rs.27,99,500/- and with surety for like sum with the conditions.**

**The application filed by the Vinay Babu.V S/o Venugopal under section 451 and 457 Cr.PC bearing Account No.8113900439 maintained in Kotak Mahindra Bank, Sanjaynagar Branch, Bengaluru is hereby ordered to defreeze with the execution of indemnity bond of Rs.11,15,114/- and with surety for like sum with the conditions.**

**The application filed by the Vinay Babu.V S/o Venugopal under section 451 and 457 Cr.PC bearing Account No.917020081077149 maintained in Axis Bank Ltd., New BEL Road Branch, Bengaluru is hereby rejected.**

**The application filed by the Moon June Seok under section 451 and 457 Cr.PC is hereby ordered release the properties seized in PF No.02/2023 and PF No.03/2023 with the execution of indemnity bond of Rs.10 lakhs and with surety for like sum with the conditions.**

**The application filed by the Sri Durga Gas Agency represented by C.Harish Kumar S/o Channappa under section 451 and 457 of Cr.PC bearing Account No.37160200000049 maintained in Indian Overseas Bank, Yelahanka Branch is hereby ordered to defreeze with the execution of indemnity bond of Rs.2,00,000/- and with surety for like sum with the conditions.**

**The application filed by the Praveen Kumar.M under section 451 and 457 of Cr.PC bearing Account No.918010055321267 maintained in Axis Bank, Kacharakanahalli Branch, Bengaluru is hereby ordered to defreeze with the execution of**

**indemnity bond of Rs.98,074/- and with surety for like sum with the conditions is mentioned as under.**

**CONDITIONS**

1. At the time of releasing the said money to the applicant by name Moon June Seok the denomination shall be mentioned in the panchanama. At the time of panchanama the investigating officer shall take the photographs at the applicant expense in the four distant angles and submit with final report.
2. The applicant by name Moon June Seok shall produce the cash and and Samsung X21 Mobile before the I.O and the court as and when required by the IO and Court.
3. The applicants by name Mohan B.M is directed to give bank guarantee of Rs.2,99,788/-, Mohith Gowda.S is directed to give bank guarantee of Rs.27,99,500/-, Vinay Babu.V is directed to give bank guarantee of Rs.11,15,114/-, Sri Durga Gas Agency rep. By C.Harish Kumar is directed to give bank guarantee of Rs.2 lakhs and Praveen Kumar.M is directed to give bank guarantee

of Rs.98,074/- lakh and permitted to operate the said account.

4. The applicants shall produce copies of Aadhaar Card, Pan Card, account details if any.
5. The applicants shall co-operate for investigation without fail.
6. The applicants shall undertake if during investigation it found they involved in this case, they shall attend before the Court and submit their bank accounts and amount.

Office is hereby directed to issue intimation to the said bank through PSI of Sanjayanagara Police Station, Bengaluru after furnishing surety.

(Dictated to the stenographer directly on computer, typed by him, corrected by me, then signed and pronounced by me in the open court on this the 4<sup>th</sup> day of June, 2024).

III ACMM, Bengaluru.