MHBI010040002025

Received On	:	29/11/2025
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Decided On	:	10/08/2026
Duration	:	00Y, 08M, 11D

IN THE COURT OF SESSIONS,BEED AT BEED

(Presided over by Jayshri R. Pulate, Additional Sessions Judge-2, Beed)

Criminal Revision Application No. 78/2025

Exhibit No. :- 10

Shivaji Bhaginath Sakhare
Age : 25 Years, Occu. Agriculturist
R/o. Tembhurni, Tq.Shirur(Ka),
Dist-Beed.

: .... **Petitioner**

/// **Versus** ///

The State of Maharashtra : .... **Respondent**

Revision under Section 440 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

APPEARANCE:

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Mr. P. B. Misal : Advocate for Petitioner,
Mr. A. B. Tidke : APP for the State.

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JUDGMENT

(Delivered on this 10th day of August - 2026)

This revision petition is filed under Section 440 of the Cr. P. C. thereby challenging the legality, propriety and correctness of the order dated 03.11.2025 passed below Exh.5 in Regular Criminal Case No.502/2024 pending before learned Additional Chief Judicial Magistrate (Court No.5), Beed whereby the learned Additional Chief Judicial Magistrate (Court No.5) rejected application of the petitioner to de-freeze his Savings Account No.000163306600001339 in Shri Venkatesh Multistate Co-operative Credit Society Ltd. Shirur Kasar, IFSC Code RATN000031 was seized in Crime No.73/2024 registered with Cyber Police Station, Beed.

Facts of present revision petition in brief are as under :-

2. Petitioner is accused No.4 in Crime No.73/2024 registered with Cyber Police Station, Beed for the offences punishable under Sections 323, 112, 61 and 3(5) of Bhartiya Nyaya Sanhit (in short "BNS") r/w. Section 4 and 5 of Maharashtra Prevention of Gambling Act and Section 66 of Information Technology Act. Charge-sheet bearing R.C.C.No.502/2024 is filed before the learned Additional Chief Judicial Magistrate (Court No.5), Beed. During investigation, the savings bank account of petitioner was freezed by the

Investigating Officer. Application Exh.5 was filed by the petitioner to de-freeze the said account but the same is rejected by learned Additional Chief Judicial Magistrate (Court No.5), Beed. Hence, this revision petition is filed to set aside the impugned order.

3. Respondent/State appeared but did not filed say or raised revision petition. I heard Mr. P. B. Misal for petitioner and Mr. A. B. Tidke for respondent.

4. Learned Advocate of petitioner argued that charge-sheet in the case is filed and therefore, there is no requirement of freezing of bank account of petitioner. The account is used for day to day livelihood and to receive the Government Scheme benefits. There is no specific allegations or material that any amount relating to the present crime is lying in bank account of petitioner. The petitioner is unable to operate his agricultural transactions, Government Subsidies, other benefits etc. The investigation is complete and restriction to operate bank account cannot be continued unless required by the Court under Section 106 of the B. N. S.S.

5. Per contra, learned APP argued that the petitioner used the seized account for collecting the amounts in the crime registered against him. If, the account is de-freezed, the

petitioner will close the account and it will destroy the evidence required in the case. Thus, prayed for rejection of revision petition.

6. The Court has to see whether the impugned order is legal, proper and correct. If it is not so, then the Court can interfere in it. As such, following points arise for my determination and I have given my findings for the reasons that follows:

	POINTS	FINDINGS
(1)	Whether the order dated 03/11/2025 passed by learned Additional Chief Judicial Magistrate (Court No.5), Beed below Exh. 5 in RCC No. 502/2024 is legal, proper and sustainable ?	… No.
(2)	Whether any interference at the hands of this Court is required in the said order ?	… Yes.
(3)	What order ?	As per final order

REASONS

As to Point Nos. 1 & 2 :-

7. The learned Additional Chief Judicial Magistrate

(Court No.5), Beed rejected the application of petitioner for de-freezing the account in the Credit Society. The right of petitioner is thus decided finally, therefore, present Revision Petition is maintainable.

8. The bank account of the petitioner is freezed due to criminal activities through MAHADEV APP. According to prosecution, it is used for online gambling. The question whether the Investigating Officer has power to freeze the said bank account is debatable.

9. Learned Advocate of petitioner cited the judgment in the matter of **Mr. Kartik Yogeshwar Chatur & ors. V/s. Union of India & ors. 2025 BHC-NAG 12611-DB.** It is observed by the Hon'ble High Court of Bombay, Bench at Nagpur that an Investigating Agency lacks the power under Section 106 of the BNSS (akin to Section 102 Cr.P.C.) to attach or debit freeze a bank account, even if amounts resulting from alleged Cyber fraud have been credited thereto. Section 106 deals with 'seizure' primarily for securing evidence. Attachment or debit freezing of accounts must be pursued under Section 107 of BNSS, which requires an application to the jurisdictional Magistrate and subsequent order of the Magistrate. It is further held that, Section 106 permits a Police Officer to carry out 'seizure' of property (with ex post facto report the Magistrate)

mainly to secure evidence during the investigation. Section 107 of deals with 'attachment', 'forfeiture' and 'restoration' and must be effected only upon orders of the Magistrate, as its purpose is to secure proceeds of crime to ensure availability for legal procedures like forfeiture and distribution to victim.

10. In the case in hand, it is not submitted on behalf of the prosecution as to whether the seizure of the bank account of the petitioner was immediately reported to the Magistrate concerned. From the observations laid down by the Hon'ble High Court of Bombay, Bench at Nagpur, it is manifest that an Investigating Agency has no power of attachment/debit freezing of bank account under Section 106 of B. N.S.S. However, he can proceed in terms of Section 107 of B. N. S. S. to debit freeze or attach bank account. So far as, Banks are concerned, unless there is an specific order of debit freezing of account by a Competent Authority, they should act in terms of the Management System. In the case in hand, the investigation in the crime is already completed and charge-sheet is filed. As far as, the objection of the prosecution in respect of destruction of evidence by the petitioner in respect of seized bank account, the entries in the said account will remain in the statements issued by the Credit Society concerned. As such, there is no requirement for freezing the said account further.

11. Thus, it is improper to keep freezing of the said account for indefinite period. It may have serious consequences for the livelihood of the revision petitioner. More than six months period is lapsed from the freezing of the said account. Learned Additional Chief Judicial Magistrate (Court No.5), Beed has failed to consider these aspects. Hence, impugned order is not legal, proper and correct. It would be proper to direct the Credit Society concerned to de-freeze the bank account of the revision petitioner. However, at the same time, revision petitioner will have to be directed to furnish bond with undertaking that he will not close the said bank account till the conclusion of trial. Thus, the revision petition is liable to be allowed. Hence, I answer point No.1 in negative, point No.2 in affirmative and for the answer of point No.3, following order is passed.

ORDER

01. The Criminal Revision Application No. 78/2025 is allowed.

02. The impugned order dated 03.11.2025 passed by the learned Additional Chief Judicial Magistrate (Court No. 5), Beed, below Exh.5 in RCC No. 502/2024 is hereby set aside.

03. The application Exh.5 is allowed.

04. Credit Society namely Shri Venkatesh Multistate Co-operative Ltd. Shirur Kasar is directed to de-freeze the bank account of the revision petitioner subject to condition that revision petitioner shall execute the bond before the learned A.C.J.M., with undertaking that 'he will not close the said bank account till the conclusion of trial' and will produce the details of the bank account as and when required by the Court concerned.

04. Inform learned Additional Chief Judicial Magistrate (Court No. 5), Beed accordingly.

Digitally signed by JAYSHRI RADHAKRISHNA PULATE
Date: 2026.08.10 18:16:57 +0530

(Jayshri R. Pulate)
Additional Sessions Judge-2,
Beed.

Dated : 10/08/2026

CERTIFICATE

I certify that the contents of this PDF File are word to word as per original Judgment/Order.

Name of the Steno	: Smt. P. P. Andurkar
Name of the Court	: Addl. Sessions Judge, Beed
Judgment delivered on	: 10/08/2026
Judgment signed by P.O.	: 10/08/2026
PDF Uploading Date	:10/08/2026

Sd/-

Stenographer Grade-I