MHPU041922832025

<u>CRI MA NO./5169/2025</u>
<u>Nandakumar Baburao Kulkarni</u>
<u>Vs</u>
<u>The State Of Maharashtra through Bharati Vidyapeeth Police Station</u>

<u>ORDER BELOW EXH.1</u>
(passed on 16/01/2026)

1. The applicant is filed present application under section 503 of BNSS for return of seized amount which was transferred to the account of recipient account holders with Axis Bank.

2. It is evident from the perusal of the record that this is not a case of online fraud by hacking bank account or theft of card or unauthorized transaction etc. This is a unfortunate case of cheating wherein, the applicant at his own transferred amount in the account of fraudster. The applicant had not verified all the details of offender and only believing his words, transferred as many as Rs.15,09,800/-. This is a case of cheating. Therefore, he registered online Cyber complaint No. 31909250174228 and 31909250174313 to inform that the applicant's money of Rs.15,09,800/- was credited in the account with Axis Bank and the same has been frozen. The applicant has provided the details of the account number, transactions ID, amount and date of transaction and bank in the application.

3. I.O. gave no objection and Ld. APP raised formal objection. The say of accused/recipient account holders was called upon and notice was sent to them through RPAD, but they failed to appear or submit their say before the court. Hence, matter is proceeded without say of recipient account holders.

4. In the present case, the applicant claims an amount lying on the bank account of the accused and third party. In such situation, before dealing with merits and demerits of case, it is proper to refer decision of Hon'ble Karnataka High Court in ***Rahul Chari and Ors. vs. State of Karnataka and Ors. (MANU/KA/5112/2022)***, It has directed that:

> *"18. This Court is coming across scores and scores of cases where the account is frozen, de-frozen and the amount that the complainant is due from a suspect or an accused is transferred to the account of the complainant from the account of third parties which action is contrary to all cannons of law. It has therefore, become necessary for this Court to direct the learned Magistrates that while dealing with applications under Sections 451 and 457 of the Cr.P.C., particularly in cases where it involves intermediaries like the petitioners, to hear those intermediaries and then direct transfer of the amount, and not allow the application filed under Sections 451 and 457 of the Cr.P.C in a casual manner.*
>
> *19. The learned Magistrates are required to note that they are dealing with the properties of third parties. Decision on an application under Sections 451 and 457 Cr.P.C. cannot become a frolicsome act on the part of the learned Magistrates merely because it is subject to indemnity. It is not the question of security but it is the question of right to property of an individual, from whose account the money is transferred without any information to him. Therefore, the learned Magistrates while considering the applications of the kind shall notice the following:*
> *(a) Whether the accused has been identified by the Investigating Officer?*
> *(b) Whether the account of the accused is identified by the Investigating Officer?*
> *(c) If the rival claimant is not an accused, whether intimation is given to the account holder, from whose account the money is sought to be transferred to the account of the complainant and such order of transfer of amount from the particular account shall only be after hearing the person, from whose account the money is sought to be transferred to the account of the complainant, before its transfer."* (emphasis supplied)

5. It is pertinent to note that on the basis of bank transaction, IO successfully has frozen the bank account of the fraudster and recipient account holders. However, the fraudster is yet to be traced in the investigation. There are no rival claims of others. Therefore, version of the applicant appears to be correct and believable. The applicant lost his hard earned money due to online fraud. Therefore, it is just and proper to re-transfer the amount lying from the fraudster bank account to the applicant as claimed. No doubt, amount which is a right to property of the account holder cannot be taken away without even bringing to his knowledge. However, the account holder is main fraudster and not traced out. He has not approached for de-freezing the account. Therefore, the applicant who is the victim of fraud is definitely entitled to the amount he lost from frozen account of the fraudster. That apart, objection raised by APP could be overcome by imposing certain conditions while allowing the said application.

6. It is evident from the say of the IO that the account of the fraudster is involved and its details are provided in the say itself. Therefore, following amount can be ordered to be released from the account of the fraudster.

Sr. No.	Bank Name and A/c. No. of Fraudster	Defrauded/ lien Amount	Available Balance	Amount to be released
01.	Axis Bank Account No. 924020071898897	99,900/-	8,632/-	8,632/-
02.	Axis Bank Account No. 924020034101758	99,900/-	30,42,740/-	99,900/-
03.	Axis Bank Account No. 925020030753701	16,000/-	3,15,874/-	16,000/-
04.	Axis Bank Account No. 924020070987499	99,800/-	2,26,741/-	99,800/-
05.	Axis Bank Account No. 925020037957465	99,800/-	7,01,011/-	99,800/-
06.	Axis Bank Account No. 925020029187887	5,02,000/-	6,94,002/-	5,02,000/-

7. The applicant has sought for repayment of frozen amount. Therefore, the prayer of the applicant can not be satisfied. As a result, I pass the following order :

ORDER ,

1), The application is partly allowed.

2) The Branch Managers of concerned following Banks are directed to revert the amounts as mentioned below to account of the applicant accordingly :

Axis Bank Account No. 924020071898897	8,632/-
Axis Bank Account No. 924020034101758	99,900/-
Axis Bank Account No. 925020030753701	16,000/-
Axis Bank Account No. 924020070987499	99,800/-
Axis Bank Account No. 925020037957465	99,800/-
Axis Bank Account No. 925020029187887	5,02,000/-

3) The Branch Manager of Axis Bank is directed to co-operate IO and transfer amount lying in bank account of above fraudsters to the bank account of the applicant.

4) The applicant shall furnish indemnity bond of Rs.8,26,132/- and if lesser amount is received then, indemnity bond of such amount, indemnifying said amount against third party claim.

5) The applicant shall deposit the said amount as and when directed by this court.

6) Issue intimation letter to bank and IO accordingly.

7) This order is digitally signed and is original.

Order
Digitally signed by ALOK ASHOK PANDEY
Location: 4th Judicial Magistrate F.C. Court No. 4 Pune.
Date: 2026.01.16 18:09:20 +0530

(A. A. Pandey)
Judicial Magistrate First Class,
Court no.4, Pune.

Date: 16.01.2026