

Appln. No. 1316 / N / 2021.
In C. C. No.2515/PW/2021
(C.R.No.556/2021of D. N. Nagar P. Stn).

ORDER BELOW APPLICATION FOR DEFREEZING THE ACCOUNT

Through this application the applicant Mr. Samit Pandurang Ambre has requested for defreezing the saving bank account bearing no. 10130310015112 with SVC Co. Op. Bank Ltd., Versova Branch, Sarkar Corner, Near Andheri Sports Complex, Andheri (W), Mumbai which is freezed by Investigating officer in C.R. No.556/2021 registered for the offences u/s. 420, 406 r/w 34 of IPC. According to applicant, it is regular saving account and due to defreezing, the applicant is facing difficulties to manage the routine account. In support of this application the applicant has annexed copy of bank pass book, copy of Aadhar card, amount deposit receipt, copy of ABA order of Hon'ble Sessions Court, by virtue of which applicant has been afforded anticipatory bail. Further applicant has submitted that as per ABA order dated 21.08.2021 of Hon'ble Sessions Court, he has deposited amount of Rs.67,500/- and he has submitted the amount deposit receipt on record.

2. Upon receipt of this application say of Investigating officer, learned APP and complainant came to be called. The I.O, learned APP and complainant have opposed this application. I have heard all the sides and perused the documents annexed with this application.

3. Noticeably, the freezed saving bank account bearing no. 10130310015112 with SVC Co. Op. Bank Ltd., Versova Branch, Andheri (W), Mumbai belongs to applicant and he appears to be rightful

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claimant to operate said account. Significantly in purview of judicial ratio laid down in the case of **National Securities Clearing Corporation Ltd V/s. State of Maharashtra vide Criminal Application no. 483/2013**, the Hon'ble Bombay High Court has held that provisions of section 451 and 457 are available and applicable in the event of defreezing of account freezed u/s. 102 of Cr. P. C. Significantly, in the case in hand the Investigating officer has not appears to be reported the seizure u/s. 102 (3) of Cr. P. C to the court. Apart from that the applicant is the authorized operator of said account and no crime proceeds are reported to be there in said account. The accused has already deposited the amount as per order of Hon'ble Sessions Court. Furthermore, the account of HDFC Bank was alleged to be instrumental in the commission of offence and not the present one. Thus keeping in view the applicant as rightful claimant and difficulty being faced by him in operation of the said account, I am satisfied to allow this application through following order:

ORDER

- i) The application is allowed.
- ii) The Investigating officer shall instruct the SVC Co. Op. Bank Ltd for defreezing the saving account bearing no. 10130310015112 with SVC Co. Op. Bank Ltd., Versova Andheri Branch, Mumbai

Date 26.04.2022

Sd/-
(R. R. Khan)
Metropolitan Magistrate,
10th Court, Andheri, Mumbai.