

GAHC010208852025



2026:GAU-AS:14635

THE GAUhati HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1144/2025

DIBYAJYOTI DATTA
S/O- PRAFULLA CH. DUTTA, R/O- NILGIRI LANE, BAGHARBARI, SATGAON
ROAD, PANJABARI, GUWAHATI-37,
PRESENT ADDRESS 10 THIRUVENGADAM STREET, ADYAR, CHENNAI,
TAMILNADU, PIN-600020

VERSUS

THE CNETRAL BUREAU OF INVESTIGATION
REP BY ITS SPECIAL PP

Advocate for the Petitioner : MR S BORTHAKUR,

Advocate for the Respondent : MS. M. KUMARI, SC, CBI,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

Date on which judgment is reserved : **28.09.2026**

Date of pronouncement of judgment : **01.10.2026**

Whether the pronouncement is of the : N/A.
operative part of the judgment?

Whether the full judgment has been : Yes.
pronounced?

JUDGMENT & ORDER (CAV)

Heard Mr. S. Borthakur, learned Senior Counsel being assisted by Mr. S. Dey, learned counsel for the petitioner. Also heard Ms. M. Kumari, learned standing counsel appearing for the respondent CBI.

2. This is an application under Section 528 of the BNSS, 2023 for quashing and setting aside the impugned order dated 14.08.2025, passed by the learned Special Judge, Addl. CBI Court No.3, Assam in Special Case No.2/2023.

3. It is submitted by Mr. Borthakur, the learned Senior Counsel that an FIR was lodged on 10.02.2019, by one Sri T.L. Zamang, Deputy Superintendent of Police and in-charge of the Head of Branch of the CBI, ACB, Guwahati alleging *inter alia* that the petitioner while functioning as the General Manager (Sales), Indian Oil Corporation (Assam Oil Division) during the year 2018—19 had entered into criminal conspiracies with other accused persons and in pursuant to the said conspiracies, he demanded and accepted illegal gratification frequently from different private businessmen owning Petrol Pump and/or having kerosene oil dealership in connivance with few private conduits for showing them favour in smooth running of their business as well as for showing favour in allotment of new retail outlets at places spread all over the North Eastern States including Assam.

4. Accordingly, on the basis of the said FIR, a case has been registered at CBI, ACB, Guwahati Police Station under Sections 7/7A/8/12 of the Prevention of Corruption Act, 1988, read with Section 120B of the IPC. During the course of

the investigation of the said case, Rs. 3,67,000/- of Indian currency notes, one 5 Euro currency note and 2000 US Dollars (20 Nos. of 100 Dollars each) were seized from the house of the accused Petitioner. Furthermore, the State Bank of India Savings Bank Account No. 30014759731 held by the Petitioner in South Guwahati Branch of State Bank of India was freezed, apart from the State Bank of India PPF Account No. 10055711223, held by the Petitioner on behalf of his elder son, Sri Abhigyan Datta, as father & natural guardian at SBI's Guwahati Medical College Branch was also freezed during the investigation. On completion of the investigation, the CBI submitted their Charge-Sheet in the case on 23.12.2022, implicating the accused petitioner and two others. In the Charge-Sheet, basically the allegation brought against the present accused petitioner is that he was caught red handed while taking bribe of Rs. 2,00,000/- (Rupees Two Lakhs) only from one of the co-accused, namely, Ms. Bendangnaro Ao.

5. However, the investigation of the case was kept open for Supplementary Charge-Sheet and during the pendency of the present petition, one Supplementary Charge-Sheet is also filed by the I.O. During the pendency of investigation of the case, in the Court of learned Special Judge, Addl. CBI Court No.3, a petition was moved on 20.01.2025 under Section 451 read with Section 457 of the Code of Criminal Procedure praying for:

(i) Handing over custody of Rs. 3,67,000/- in Indian currency notes, one 5 Euro currency note and 2000 US Dollars (20 Nos. of 100 Dollars each);

(ii) De-freezing the State Bank of India Savings Bank Account No. 30014759731 held by the Petitioner at SBI's South Guwahati Branch;

(iii) De-freezing the State Bank of India PPF Account No. 10055711223 held by the Petitioner on behalf of his son, Sri Abhigyan Datta, at SBI's Guwahati Medical College Branch.

6. While moving the petition before the Court of learned Special Judge, Addl. CBI Court No.3, it is also contended by the petitioner that vide order dated 14.07.2023, the CBI had made a written prayer before the learned Trial Court that the seized cash amount of Rs. 3,67,000/- of Indian currency notes, one 5 Euro currency note and 2000 US Dollars (20 Nos. of 100 Dollars each) are not required to be produced before the Court during the trial and thus, the CBI had prayed for permission to deposit the said amount in the current account of the CBI which was accordingly allowed by the Court. Furthermore, in the written objection filed by the CBI in connection with the above referred petition, it is submitted that the Savings Bank Account and the PPF Account of the petitioner may be kept freezed on the ground that due to the non-cooperation of the accused persons, the investigation of the case was still pending. But there is no mention that the cash amounts may not be released in favour of the petitioner. Thus, during the pendency of the above referred petition before the Court of learned Special Judge, Addl. CBI Court No.3, basically it is the case of the CBI that the investigation is still pending and hence, the seized amount of money may not be released as well as the Savings Bank Account and the PPF Account of the petitioner may not be de-freezed, which may affect the investigation of this case.

7. Considering all these aspects of the case, the learned Special Judge, Addl. CBI Court No.3 passed the order dated 14.08.2025 and rejected the prayer of the petitioner with the observation that the seized currency and the money in

the aforesaid Savings Bank Account as well as in the PPF Account may be the proceeds of the crime, which may be liable for confiscation at the end of the trial. Moreover, it is held that de-freezing of the accounts and release of the money therein may frustrate the possible confiscation proceeding. The learned Special Judge also had discussed some judgments of the Hon'ble Apex Court, on which basis, passed the said order. But at this stage, the investigation is already completed and the Supplementary Charge-Sheet has also been filed by the CBI and hence, the question of frustrating the investigation does not arise at this stage.

8. Mr. Borthakur, the learned Senior Counsel further submitted that the learned Special Judge had observed that there may be problem in confiscating the crime proceeds at the end of the trial. But there is no mention from the CBI in regards to confiscation of the seized accounts of the accused/ petitioner. But in the order, the learned Special Judge had observed in regards of the confiscation at the end of the trial. Thus, the order was basically passed only considering the submission of the CBI/respondent that the release of money and de-freezing of the accounts may hamper in the investigation of the case and may frustrate the investigation and in the same time, it is also observed that the confiscation proceeding may also be frustrated if the money is released and the accounts are de-freezed on the prayer made by the accused petitioner.

9. Mr. Borthakur, the learned Senior Counsel further submitted that there is no mention in the Charge Sheet about the accounts which have been freezed during investigation and the same are also not part of the charge-sheet, as claimed by the petitioner. Further, the I.O. also seized the PPF account of the

petitioner, which cannot be seized or attached by a Police Officer in any proceeding under the proviso of Section 9 and 10 of the Public Provident Fund Act, 1968. Section 9 of the said Act gives protection to any subscriber and the fund is not liable for attachment under any decree or order in respect of any debt or liability incurred by the subscriber. Thus the CBI has no authority or power to attach/freeze the PPF account of the present accused petitioner during the investigation. In that context, Mr. Borthakur, the learned Senior Counsel also relied on the order of the co-ordinate Bench of this Court in WP(C) No.5074/2013 (***Jagatsinh Laljibhai Vasava vs. Central Bureau of Investigation and others***) and in para 8, 12 & 13, it has expressed the view that the money in a PPF Account is exempted from attachment and it is inalienable and normally no execution is allowed for such sum. The co-ordinate Bench of this Court had also relied on the judgment of the Hon'ble Apex Court while passing the said order. The para 8, 12 & 13 of the said judgment read as under:

“8. The learned counsel Shri Biswas has also relied upon the decision of the Hon'ble Apex Court in the case of Union of India v. Hira Devi & Anr., reported in AIR 1952 SC 227 which was also referred by the Gujarat High Court. Shri Biswas submits that as per the said judgment of the Hon'ble Apex Court, it has been held that prohibition against the assignment or the attachment of such compulsory deposit is based on the ground of public policy. Further it has been held that where the interdiction is absolute, to allow a judgment creditor to get at the fund indirectly by means of the appointment of a receiver would be to circumvent the statute which would frustrate the very object of the legislation. The Hon'ble Supreme Court has further laid down that money in a PPF account is exempted from attachment and is inalienable and normally no execution would allow such sum. Reliance is also sought to be made in the decision of the Hon'ble Apex Court in the case of Union of India v. Jyoti Chit Fund and Finance & Ors., reported in AIR 1976 SC 1163.

12. Section 9 of the PPF Act, 1968 lays down an embargo against the attachment of any amount standing to the credit of a subscriber. For ready reference, Section 9 of the Act is extracted herein below:

“9. Protection against attachment-The amount standing to the credit of any subscriber in the fund shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the subscriber.”

13. This Court is in agreement with the submission of the learned counsel for the petitioner that an absolute embargo is intended by the statute to protect a PPF account from orders of attachment. Borrowing the language of the Hon'ble Supreme Court in the case of Smt. Hira Devi (Supra), the Provident Fund money is exempted from the attachment and is inalienable. Further, as has been held by the Division Bench of the Gujarat High Court, as long as an amount remains invested in a PPF account of an individual the same would be immune from any attachment from recovery of the tax dues. In the instant case, there is no dispute that the account in question are Provident Fund Accounts and therefore, the embargo prescribed in Section 9 of the Act will have its full effect."

10. Mr. Borthakur, the learned Senior Counsel also submitted that there is no clarification or mention that the accounts which have been freezed by the I.O. and the money which has already been seized by the police during investigation are connected with proceeds of the crime. The learned Senior Counsel further submitted that under Section 102 of the CrPC, the police has the authority/power to seize the accounts/ money, if it is directly linked with the crime proceeds. But here in the instant case, it is seen that the CBI could not make any specification as to how those accounts and money seized by the I.O. is directly linked with the crime proceeds. In that context also, Mr. Borthakur, the learned Senior Counsel had cited two decisions of the Hon'ble Apex Court, i.e. **(1999) 7 SCC 685 (State of Maharashtra vs. Tapas D. Neogy)** and **(2012) 6 SCC 760 (M.T. Enrica Lexie and another vs. Doramma and others)**. In para 12 of the **State of Maharashtra vs. Tapas D. Neogy** (Supra), the Hon'ble Apex Court has held that:

"12. Having considered the divergent views taken by different High Courts with regard to the power of seizure under [Section 102](#) of the Code of Criminal Procedure, and whether the bank account can be held to be 'property' within the meaning of said Section 102(1), we see no justification to give any narrow interpretation to the provisions of the [Criminal Procedure Code](#). It is well known that corruption in public offices has become so rampant that it has become difficult to cope up with the same. Then again the time consumed by the Courts in concluding the trials is another factor which should be borne in mind in interpreting the provisions of [Section 102](#) of the Criminal Procedure Code and the underlying object engrafted therein, inasmuch as if there can be no order of seizure of the bank account of the accused then the entire money deposited in a bank which is ultimately held in the trial to be the outcome of the illegal gratification, could be withdrawn by the accused and the Courts would be powerless

to get the said money which has any direct link with the commission of the offence committed by the accused as a public officer. We are, therefore, persuaded to take the view that the bank account of the accused or any of his relation is 'property' within the meaning of [Section 102](#) of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into. The contrary view expressed by Karnataka, Gauhati and Allahabad High Courts, does not represent the correct law. It may also be seen that under the [Prevention of Corruption Act, 1988](#), in the matter of imposition of fine under sub-section (2) of [Section 13](#), the legislatures have provided that the Courts in fixing the amount of fine shall take into consideration the amount or the value of the property, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section(1) of [Section 13](#), the pecuniary resources or property for which the accused person is unable to account satisfactorily. The interpretation given by us in respect of the power of seizure under [Section 102](#) of the Criminal Procedure Code is in accordance with the intention of the legislature engrafted in [Section 16](#) of the Prevention of Corruption Act [referred to above](#). In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court of Bombay committed error in holding that the police officer could not have seized the bank account or could not have issued any direction to the bank officer, prohibiting the account of the accused from being operated upon. Though we have laid down the law, but so far as the present case is concerned, the order impugned has already been given effect to and the accused has been operating upon his account, and so, we do not interfere with the same”.

11. Citing the above referred judgments, the learned Senior Counsel submitted that neither there is any specification as to whether the money which has been seized under the said account/freeze accounts are linked with the crime proceeds and in the same time, the police authority has no power to attach/freeze the PPF account of the petitioner and accordingly, the learned Senior Counsel submitted that the present petition may be allowed and the money which has been seized, may be released and the accounts freeze during the investigation may be de-frozen.

12. Ms. M. Kumari, the learned standing counsel appearing for the respondent CBI submitted in this regard that it is not a case that those accounts were not part of the Charge-Sheet as the entire seizure memo has been placed while submitting the Charge-Sheet and from the Charge-Sheet as well as from the seizure memo, it is seen that those seized accounts are the part of the Charge-

Sheet and there is specific mention in the seizure memo attached along with the Charge-Sheet, which is considered to be part of the Charge-Sheet. She further submitted that it is an admitted fact that the case has already been Charge-Sheeted and the case is at the stage of consideration of charge and one Supplementary Charge-Sheet is also submitted by the I.O. But the investigation is still going on and it is still open for the CBI to file Supplementary Charge-Sheet and in that event, there is every possibility of alteration of charge, even though the formal charge is framed by the learned Special Judge. She further submitted that one application was initially filed by the CBI for examination of the voice sample which was rejected by the Court of learned Special Judge, CBI and aggrieved by the said rejection order, they have moved an application before this Court vide *Criminal Revision Petition No. 145/2020*, wherein the prayer for collecting the voice sample was allowed by this Court. In pursuant to that order, the CBI had issued several notices to the present accused petitioner along with the co-accused persons to appear before the investigating team for collection/ examination of their voice sample. But they never cooperated with the investigating team and approached the Hon'ble Apex Court with a Special Leave Petition against the said order. The said Special Leave Petition is still pending before the Hon'ble Apex Court but there is no stay order in the order passed by this Court in *Criminal Revision Petition No. 145/2020*. Thus, the investigation is still open and the examination/collection of the voice sample, which is most essential part of the investigation, especially in a case of corruption and that too in a trap case, is not yet completed due to non-cooperation of the accused person.

13. Ms. M. Kumari, the learned standing counsel for the CBI further submitted that the investigation of the case is still going on and it cannot be held that the

entire investigation has been completed, as submitted by the learned Senior Counsel for the petitioner. During the trial only, it may come out that the money which is seized, may be of crime proceeds. Ms. Kumari, the learned standing counsel further submitted that the PPF Accounts are generally utilized by a person after his retirement and hence, there is no necessity of de-freezing the PPF Account at this stage. She further submitted that the prayer for de-freezing of the accounts and releasing the money was rejected by the learned Special Judge, considering the view of the Hon'ble Apex Court. The learned Special Judge rightly held that granting zimma of the seized Indian currency and de-freezing of the accounts at this stage, may frustrate the confiscation proceeding at the end of the trial, if it is established that the said accounts of the accused petitioner are from the crime proceeds. Accordingly, Ms. Kumari, the learned standing counsel for the CBI raised vehement objection and submitted that the prayer for release of the seized money and de-freezing the accounts of the accused petitioner may not be considered at this stage, where investigation is still under process and voice sample of the accused petitioner is yet to be collected by the investigating agency.

14. After hearing the submissions made by leaned counsel for both sides, I have also perused the case records and the order passed by the learned Special Judge, which is under challenge.

15. It is an admitted fact that during investigation, some accounts as well as cash amount along with some foreign currencies were seized in connection with this case including a State Bank of India PPF Account of the accused/petitioner which is in the name of his son Abhigyan Dutta. It is also an admitted fact that the case has already been charge sheeted and after subsequent investigation, a

Supplementary Charge-Sheet is also filed against the accused/petitioner and the hearing on the consideration of the charge is also completed. It is the main contention of the petitioner that the investigation has already been completed even the Supplementary Charge-Sheet has also been filed during the pendency of this case and hence, further requirement of freezing the accounts of the accused petitioner as well as attachment of the money does not arise.

16. More so, Mr. Borthakur, the learned Senior Counsel for the petitioner stressed on the point that the investigating team of the CBI did not find any necessity for production of those freezed accounts as well as the seized money along with the foreign currencies before the Court, for which the prayer for depositing the same in the current account of the CBI has been made and said prayer was also allowed. But it cannot be held that the seized money including the foreign currencies which were deposited in the current account of the CBI is not the crime proceeds or may not be required for the purpose of investigation, even if it is considered that production of the seized money including the foreign currencies may not be required at the time of the trial. But for such prayer of depositing the money in the current account of the CBI cannot be the only ground to consider that there was any admission on the part of the CBI that those freezed accounts as well as the seized money are not required in the present case at the end of the trial or these are not the crime proceeds, which may not also be required for confiscation at the end of the trial. A simple prayer for depositing the seized money in the current account of the CBI cannot be the sole ground to consider that the seized money is not the crime proceeds or will not be required at the end of the trial or even during the trial. It is better to keep the seized money in the current account of the CBI, as it may not be so safe to keep the same in the *malkhana* of the investigating team.

17. Mr. Borthakur, the learned Senior Counsel for the petitioner, by citing the decisions of the Hon'ble Apex Court had submitted that under Section 102 of the CrPC, the police has the authority to attach the accounts/seized money, if it has direct link with the crime proceeds. In the present case also, the bank accounts were freezed and the money was seized from the possession of the accused petitioner, considering it to be the crime proceeds who is stated to be involved not only in the case wherein he was trapped while taking bribe of Rs.2,00,000/- from one of the co-accused but there are various allegations against the present accused petitioner who is also alleged to have committed similar kind of offences with private businessmen owning Petrol Pump and/or having kerosene oil dealership in connivance with few private conduits for showing them favour in smooth running of their business as well as for showing favour in allotment of new retail outlets.

18. It is seen that the case is still under investigation and the trial is yet to commence and as such, it cannot be held at this stage that the savings account which has been freezed during the investigation including the seizure of money from the possession of the accused petitioner are not the crime proceeds or not directly linked with the crime.

19. Coming to the issue of de-freezing the PPF Account of the petitioner in the name of his elder son, Sri Abhigyan Datta. As per Sections 9 and 10 of the Public Provident Fund Act, 1968, gives the protection against the attachment and it read as "*the amount standing to the credit of any subscriber and the fund is not liable for attachment under any decree or order of any Court in respect of any debt or liability incurred by the subscriber.*" The co-ordinate Bench of this Court, as relied by Mr. Borthakur, the learned Senior Counsel for the petitioner, also

held that there is an absolute embargo intended by the statute to protect the PPF Account from orders of attachment and the provident fund money is exempted from attachment and is inalienable.

20. In the present case also, the investigating agency/CBI had freezed the PPF Account of the petitioner in the name of his elder son, while freezing his other Bank accounts including seizure of money. But considering the provision of Section 9 of the Public Provident Fund Act, 1968 as well as considering the view expressed by the Hon'ble Apex Court and the co-ordinate Bench of this Court, it is seen that the PPF Account cannot be attached by the Investigating Officer and it is exempted from such attachment and at the same time, it is inalienable. In view of the above, it is the opinion of this Court that the PPF Account, which has been freezed by the Investigating Agency during the investigation of the case, may be de-freezed immediately.

21. But as discussed above, it is seen that the case is still under investigation wherein the CBI is still under process for collecting/examining the voice sample of the accused petitioner and there is no stay order from the Hon'ble Apex Court against the order of this Court passed in *Criminal Revision Petition No. 145/2020*, wherein prayer for examining the voice sample of the accused petitioner was allowed by this Court. In absence of any order, the CBI is still investigating the case and is trying to collect the voice samples from the accused persons for examination. Thus, even after filing of the Supplementary Charge-Sheet, the case is still under investigation and the investigating authority has the power to file another Supplementary Charge-Sheet and there is even scope of altering/modifying the charge, if the formal charges are already framed by the learned Special Judge.

22. Apart from that, it cannot be held at this stage that the money which has been seized during investigation and the seized Bank Accounts of the petitioner, which are being freezed by the CBI are not the crime proceeds or they are not directly linked with the crime proceeds for de-freezing them immediately. However, during the trial it may come out as to whether those accounts are directly linked with the crime proceeds or not. So, at this stage, this Court is of the opinion that release of the seized money along with the foreign currency and de-freezing the other Bank Accounts of the petitioner may not be justified at this stage, wherein the investigation is still under process.

23. Considering the detail above, the prayer for: (i) handing over the custody of Rs. 3,67,000/- in Indian currency notes, one 5 Euro currency note and 2000 US Dollars (20 Nos. of 100 Dollars each) and (ii) de-freezing the State Bank of India Savings Bank Account No. 30014759731 held by the Petitioner at SBI's South Guwahati Branch, are rejected at this stage. However, the State Bank of India PPF Account No. 10055711223 held by the petitioner on behalf of his son, Sri Abhigyan Datta, at SBI's Guwahati Medical College Branch is hereby de-freezed and the concerned authority is to take immediate steps for de-freezing the account.

24. With the above observation and direction, the present petition stands disposed of.

JUDGE

Comparing Assistant

Manoranjan Barman

Digitally signed by Manoranjan Barman
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st=Assam, street=12/190 GOPALBAZAR, Sandheli, Pachim
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title=2306,
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serialNumber=f62c6d212ff0a19bb91eb2be0de18d2d5675
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