
DISPROPORTIONATE ADMINISTRATIVE ACTION IN CYBER FINANCIAL FRAUD INVESTIGATIONS: AN ANALYSIS OF BLANKET BANK ACCOUNT FREEZES VS. DISPUTED AMOUNT LIENS UNDER SECTION 106 BNSS

Adv Aditya Nanhoriya, National Forensic Sciences University Under Ministry of Home
Affairs

Introduction

As digital payments have surged in India, the instances of cyber financial fraud have also skyrocketed, from phishing and unified payments interface (UPI) scams to investment and “digital arrest” scams. In order to catch up, the enforcement authorities have opted for speed. Complaints filed on the National Cybercrime Reporting Portal and channelled through the Citizen Financial Cyber Fraud Reporting and Management System enables banks to be alerted within hours, and the proceeds of fraud can be stopped before they're layered through mule accounts. The purpose is legitimate: there is no realistic way to recover money from victims other than quick intervention.

The methods employed, however, have begun to garner the interest of the courts. In many instances, investigators do not limit their investigation to the amount of money it is alleged has been misappropriated. They direct banks to place a freeze on the account, which occurs often based on one discredited credit. The effects are suffered by those who have no connection with the offence, such as salaried employees, small traders or pensioners, who are deprived of their own money for 'months' without an order, or any clear path to redemption. The option—one that provides the same protection without the same collateral damage—is to have a lien only on the disputed amount.

This paper looks at that contrast through the lens of Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which gives a police officer the right to impound property which it suspects is stolen or is linked to a crime. The central issue is whether the use of a blanket freeze is proportionate to the use of another less onerous but equally effective measure of this power. In the paper it is concluded that it is not and that the constitutional protections

contained in Article 19(1)(g), 21 and 300A would limit the action to the disputed amount.

The method of the study is doctrinal, based on the interpretation of the statutory text, the constitutional principles of proportionality and the judgments of the High Court on account freezes. It does so by establishing the legal backdrop, highlighting the similarities and differences of the two practices, utilising the proportionality test, examining the jurisprudence and concluding with proposed reforms.

1. Research Objectives

The study aims at accomplishing five objectives:

- a. First, consider the extent and boundaries of the power under section 106 BNSS as compared with the Section 107 approach.
- b. Second, to make comparisons between blanket freezes and disputed-amount liens currently in place and the impact of the two on account holders and victims.
- c. Third, to challenge both measures on the proportionality test under Article 19(1) (g), Article 21 and Article 300A.
- d. Fourthly, to examine the reactions of High Courts and the gaps.

Then, to suggest sensible changes.

2. Questions on research.

RQ1. What powers does Section 106 BNSS give over bank accounts and what protections does it offer?

RQ2. What is the difference between a blanket freeze and a disputed amount lien and does the latter benefit the victim the same way?

RQ3. Where the amount in dispute is known, is a blanket freeze proportionate?

RQ4. What have been the reactions of the High Courts?

RQ5. What do you believe should be reformed?

3. Research Methodology

The research conducted is a doctrinal and qualitative research. It is not based on empirical evidence, but on the interpretation of laws and judicial reasoning, and uses the four limb proportionality framework as its analysis. The main sources are Sections 106 and 107 BNSS, Section 102 CrPC, Articles 19(1)(g), 21 and 300A of the Constitution, orders of Allahabad, Nagpur Bench of Bombay High Court, Haryana and Rajasthan High Courts and orders of MHA SOP dated 02.01.2026. The law-reporting blogs and the news reports about these orders are referred to as secondary sources. The method used is Analytical Comparative Method. The paper sets out the statutory framework, compares the two practices, applies the proportionality test, goes through the case law and critically assesses it and then suggests reforms. This study has two restrictions. There is no empirical evidence of the frequency of the account-wide freezes that are being conducted and several High Court orders are only indirectly available, as they have been reported in secondary sources, rather than in the judgments. The High Court rulings also are confined to their respective jurisdictions.

Statutory Framework

1. The power under Section 106 BNSS (previously Section 153)

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) gives police officers the power to take possession of any property which is alleged, suspected to be stolen or is found under circumstances which raises suspicion of the commission of an offence. It's an initial investigative capacity. It doesn't need any prior judicial permission, which is why it's an ideal choice for the first hours of a cyber fraud investigation, when money may be transferred in mere minutes. There is also an accountability requirement to the jurisdictional Magistrate that the seizure be reported to him/her without delay. The primary judicial restraint on the power is that duty, and a common basis of challenge in the freeze cases discussed in Section 5 is the neglect of that duty.

Operational Practice: Blanket Freeze vs. Disputed-Amount Lien

1. How a freeze normally happens.

A victim reports a fraud on the National Cybercrime Reporting Portal or on the helpline and the complaint is submitted to the banks that received the fraudulent funds through the Citizen

Financial Cyber Fraud Reporting and Management System. The recipient bank is asked to provide custody of the funds and a police officer from the appropriate jurisdiction follows with a notice invoking seizure powers under Section 106 BNSS. The process is indeed quick and in practice the bank's response is determined by the instruction given to it. Typically, if the instruction identifies the account without including an amount, the bank will pause all debits and, in some cases, even credits.¹

2. CAS materials may be used to support the following model of restraint:

A blanket freeze affects the entire account, regardless of the amount of money that is claimed to have been defrauded or the balance in the account. If there is a disputed-amount lien, it references only the amount that is traceable to the complaint, and the remaining amount in the account is unaffected. They both keep the funds that can be returned to the victim, although they have a very different impact on the account holder.

Parameter	Blanket freeze	Disputed-amount lien
Scope of restraint	Entire account, regardless of balance	Only the amount linked to the complaint
Nexus with the offence	Presumed for the whole account	Required for the sum held
Effect on holder	Loss of access to salary, savings, business funds	Ordinary banking continues on the undisputed balance
Risk to innocent holders	High (for example, a genuine recipient of a transaction later flagged)	Limited to the disputed sum
Victim's prospects of recovery	Protected	Equally protected, as the traceable sum is held
Administrative burden	Low at the outset, high later through litigation and release applications	Slightly higher at the outset, as the amount must be identified
Proportionality	Difficult to justify where a narrower measure exists	Consistent with the necessity requirement

¹ Modern Dental College and Research Centre v State of Madhya Pradesh (2016) 7 SCC 353; Justice KS Puttaswamy (Retd) v Union of India (2017) 10 SCC 1; Justice KS Puttaswamy (Retd) v Union of India (Aadhaar) (2019) 1 SCC 1.

The government of India's Ministry of Home Affairs (MHA) has created an administrative system for resolving complaints regarding the freezing of bank accounts and placing of restrictions on funds due to cyber financial fraud. A grievance redressal mechanism has been provided as per the National Cybercrime Reporting Portal (NCRP) and the Citizen Financial Cyber Fraud Reporting and Management System (CFCFRMS) under the Standard Operating

Procedure (SOP) dated 02.01.2026. Where the account holder makes a written complaint about the freezing of the bank account or the withdrawal of the funds, the concerned Investigating Officer is required, in compliance with the prescribed procedure, to upload the grievance on the grievance redressal portal of MHA within the prescribed time frame and is expected to take an appropriate decision within 7 working days. This mechanism is an acknowledgment by administration of the need for a time-limited review of account-freezing measures, and offers a process for affected account holders to request reconsideration of restrictions placed on their accounts. The relevance of this framework in the blanket freezing context is that it could allow for the consideration of restrictions beyond the transaction in question or the proceeds of any fraud. The presence of a grievance redressal system does not imply that all the freezes need to be removed from the account or that all the money must be credited to the account. The effectiveness of its application relies on the prompt investigation of the complaint, a wellthought-out decision by the competent authority, and proper coordination between the bank and the investigating authority. As such, the SOP could be considered as an administrative measure to prevent extended and excessive restrictions on an account, specifically one where the entire account is frozen rather than just an issue regarding a particular transaction or sum.²

3. Why the distinction matters

The two measures are compared and it is seen that both measures protect the victim in the same way. The difference is the cost bearer. A blanket freeze puts the burden on the account holder, who then is required to litigate for release, whereas a lien only restricts the restraint to what is required for the investigation.

The Proportionality Framework

1. The proportionality test

² Ministry of Home Affairs, 02.01.2026 dated as discussed in Sparsh Upadhyay, 'Cyber Fraud | Allahabad High Court Directs Banks To Follow MHA SOP For Frozen Accounts

The structured proportionality test, which was laid out in *Modern Dental College v. State of Madhya Pradesh* (2016) and adopted by the Constitution Bench in *K.S. Puttaswamy v. Union of India* (2017) and in the *Aadhaar* judgment (2018), has now become the yardstick against which the restrictions on Fundamental Rights are examined. There are four parts to the test:

- i. Pursuit of a legitimate State objective: measure must achieve a legitimate State objective.
 - ii. Rational connection (suitability): the measure must be able to do that.
 - iii. Necessity: alternative which is no less restrictive should be used if one exists, and would be equally effective in achieving the aim.
 - iv. Balancing: the benefits of the measure should not outweigh the harm to the right.
2. The test was then applied to account freezes. The test was then applied to the case of account freezes.

The first two of the four are easily fulfilled. The preservation of the fruits of fraud and the restoration of the same to the victim are good goals and it is a sensible means of promoting those goals. The challenge is with the third limb. A lien on the disputed amount is just as effective for the victim's claim as shown in Section 3. A blanket freeze does not meet the necessity requirement if the sum of the account to which the complaint relates is known.

3. A procedural dimension

The proportionality also applies to the exercise of a power. An action without reporting to the Magistrate or an action that may be attacked without reasoned order is less defensible as the least restrictive means, since the lack of reporting or oversight removes the safeguards that would ensure that it is within its proper bounds.

5. Judicial Responses

Since the enactment of the BNSS, various High Courts have faced blanket debit freezes, and there is a common thread in how they have dealt with it. They differ in the extent to which they travel. Provided that the same amount of the disputed sum is not collected in any subsequent notice.

The Allahabad High Court stated that an entire bank account should not be frozen in a complaint where the investigating agency has just identified a specific disputed sum. In one instance, the amount in dispute was ₹36,000 and the Court ordered the bank to remove the freezing order on the account and make a lien of that amount. It also acknowledged that a

Section 106 notice might necessitate a lien on a fixed sum but that police cannot make a bank freeze or suspend the whole financial account. In another order, the same Court stated that police should inform the Magistrate within 24 hours, that a bank be furnished with the FIR/complaint and a request be made to take the lien only on the amount alleged in the case and that action under Section 106 should be taken on a reasonable belief and not on a mere suspicion.³

The Bombay High Court (Nagpur Bench) went away. The Court, in a coordinated judgment, ruled that an investigating agency can put the disputed amount on lien, but cannot freeze the entire account, and that the police have to approach a Magistrate to ask for attachment in accordance with Section 107. It was based on the CFCFRMS guidance, which provides that banks are only allowed to lien only the disputed amount, and not to impose a debit freeze, and it overturned the debit freeze orders. The Punjab and Haryana High Court has adopted a similar interpretation on the premise that an attachment of the bank account could not be made under Section 106 and it could be done only on the order of the Magistrate as per Section 107. It directed de-freezing in areas where there was no de-freezing order.⁴

Structured guidelines

Rajasthan High Court (Justice Anand Sharma 2026) imposes guidelines on banks and police. If the amount can be determined, ordinary course is a lien/hold not a full freeze, except for reasons. A full freeze is only available for specified reasons (recorded and communicated to the bank) and a seizure in Section 106 must be reported immediately to the Magistrate. The Court had illustrated that, if it is suspected that ₹500 was committed and the remaining amount

³ Allahabad High Court on freezing of bank accounts under ss 94 and 106 BNSS Ritesh Yadav v. State of U.P. and Others

⁴ Bombay High Court, Nagpur Bench, Anil Pansare and Raj Wakode JJ, 20 November 2025 writ petition numbers; see 'Probe agencies can't freeze bank accounts involved in cyber fraud transactions: HC' The Week/PTI, 21 November 2025

is ₹5 lakh, normally the ₹500 will suffice for investigation.⁵

6. Critical Analysis

The State's proposed exemptions and other aspects of the proposal.^{6.3} The case for the exemptions.

There are three reasons to freeze the entire account. First, speed: officers say that within a few minutes, stolen money typically ends up on a series of mule accounts, and they can't afford to wait until they can determine exactly what portion of the balance is bad. Secondly, uncertainty: when several victims' funds have been amalgamated together or when the funds have come from various transactions, the traceable amount may be difficult to distinguish from the beginning. Thirdly, the risk of the account holder's involvement--some account holders are "knowing participants" and use an account for a fee. If this is the case, a narrow lien might leave the rest of the balance available to be drained.

Why these arguments are in favour of targeted liens?

Such fears are legitimate but not insubstantial and are not a reason to be imprecise. A lien is a fast remedy to speed up, because it can be filed at the same time as a freeze and will be effective from the time the lien is filed. The motivation for commingling is to keep the larger traceable amount, not the unrelated amount frozen. The danger of complicity is the most potent argument but it is a fact-based one. The Rajasthan High Court accepted that a more broad-based freeze could be appropriate if there is evidence, including the nature of the crime, multiple transactions, mule-account indicators, or the account holder's deliberate participation, that a broader freeze is warranted, as long as specific reasons are noted and shared with the bank. A blanket freeze means everyone is presumed to be a suspected mule, the evidence in most cases doesn't back that up. (Rukmani Singh vs Union Of India & Ors on 8 September, 2026)⁶

Gaps that remain

Although the judicial decisions have brought some progress, three gaps remain:

- i. No time limit as set by statute. Section 106 and administrative guidance don't define a*

⁵ Shree Balaji Enterprises v. RBI, 2026 SCC OnLine Raj 5476, decided on 20-8-2026

⁶ Rukmani Singh vs Union Of India & Ors on 8 September, 2026

time after which a freeze expires, or must be reviewed.

- ii. Lack of a uniform grievance procedure. Generally, the account holders have to go through the procedure of writing a writ petition and this involves time and expense on their part which is more appropriate for the large account holders.*
- iii. Over-compliance by banks. Banks may place a complete restriction on an account because they don't want to be liable and it's the responsibility of the account holder to correct the error.*

Doctrinal tension

There is also a split in judicial thinking between the statutory and the constitutional test which is the statutory Section 106 does not provide any freezing power – Section 107 must be used and the proportionality Section 107 is not constitutional, as it is too limited in scope. The first would not cover a proportionate freeze as authorised by a Magistrate and the second applies in both cases. These must both be dealt with in a reform proposal.

Answers to the Research Questions-

Answer RQ1. It enables police to impound, without a court order, any property that they believe has been stolen or associated with an offence, and bank accounts are considered property. The only protection is to report the seizure to the Magistrate. In the absence of any discussion about freezing, any consideration of matching amount to offence, of time limits, and of release, it is unclear whether any of those issues are included.

Answer RQ2. A freeze applies to the entire account; a lien applies to the identifiable amount. Both are intended to hold the funds that can then be returned to the victim, but the difference is whose responsibility it will be to pay for it: the account-holder (under a freeze) or the investigation itself under a lien.

Answer RQ3. No. It is legitimate as well as has a reasonable connection to the aim, but not because there is not some other equally effective and less restrictive lien available, and not because there is not some other less burdensome means of achieving the aim.

Answer RQ4. They are moving towards the lien as their default. In all the cases the Magistrate

is entitled to issue an order for reporting to the Magistrate within 24 hours in all the states except in the case of Allahabad where the Magistrate is entitled to issue a wider attachment and in the case of Punjab and Haryana and the state of Rajasthan where the order for an action of freezing is given with recorded reasons communicated to the bank.

Answer RQ5. Implement the lien as a standard practice, establish recorded grounds for broader restraint, provide timely judicial oversight and time-limited review, establish an accessible grievance process and train banks.

8. Conclusion

Cyber financial fraud requires swift action and the ability to freeze monies under Section 106 BNSS is a legitimate means of safeguarding victims. This paper has suggested, however, that it is neither necessary nor proportionate to freeze an entire account when a single amount is at issue. A lien on the debt due to the victim will protect the victim's interest as well and will not affect the other assets of the lienholder. It is supported by the decisions of the High Court discussed above, some on the basis that Section 106 has no freezing effect, and is to be used together with Section 107, others on the basis of proportionality. Reform, therefore, should ensure that the lien always becomes the standard, and that recorded reasons must be provided and be subject to judicial scrutiny and timely review for any broader limitation.

References

Legislation: *Constitution of India*, arts 19(1)(g), 21, 300A; *Bharatiya Nagarik Suraksha Sanhita 2023*, ss 106-107; *Code of Criminal Procedure 1973*, s 102.

Cases:

- *Justice KS Puttaswamy v Union of India* (2017) 10 SCC 1
- *Modern Dental College v State of MP* (2016) 7 SCC 353
- *Tapas D Neogy v State of West Bengal* (1999) 7 SCC 685
- *Teesta Atul Setalvad v State of Gujarat* (2018) 2 SCC 372
- *Archana v State of MP* (MP HC, 2026)
- *Bombay HC, Nagpur Bench* (20 November 2025)
- *Allahabad HC in Ritesh Yadav v. State of U.P. and Others* (2026)
- *Rajasthan HC, Anand Sharma J in Shree Balaji Enterprises v. RBI*, 2026 SCC Online Raj 5476, decided on 20-8-2026 (2026)
- 2025 SCC OnLine Ker 3546

Other: *MHA SOP on lien marking; CFCFRMS, FAQ 21; SCC Online Blog, 1 December 2025.*