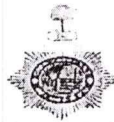


Section of BNSS

107



CHANDIGARH POLICE

OFFICE OF THE DIRECTOR GENERAL OF POLICE, U.T., CHANDIGARH
ADDL. DELUX BUILDING, SECTOR 9, CHANDIGARH-160009

CIRCULAR

Subject:- Guidelines under section 107 BNSS 2023 for Attachment, Forfeiture or Restoration of property.

Introduction:- The concept of attachment and consequent forfeiture of the property acquired from the proceeds of the crime has been introduced by way of section 107, BNSS 2023. Previously immovable properties of the accused in certain offences used to be attached under Criminal Law Amendment ordinance 1944 or under Protection of Depositors Act 1999. Various other penal statutes in the past have also provided such measures for attachment and forfeiture of properties derived from commission of crime. The attachment provisions under BNSS 2023 serves two primary objectives i.e. Firstly, to compel the appearance of the offender/accused before the judicial system in order to hold him/her accountable for the crime and involve him/her in the legal process and secondly, to deprive the offender of the benefits and fruits of his/her crime in order to deter the offender and other persons from committing the crime and to uphold the principles of justice and fairness. It is in the context of the aforesaid principles relating to attachment provisions under various criminal statutes. The introduction of Section 107 of BNSS thus seems to take the law forward for attachment of such properties. In order to achieve the aim of section 107, BNSS, 2023, the investigating officers are hereby directed to strictly follow the principle of law and the procedures explained hereunder:-

1. The investigating officer shall identify the Property as to whether it is derived directly or indirectly as a result of criminal activity or from commission of any activity as proceeds of crime.
2. On such Identification, the police officer making Investigation should obtain approval from the Superintendent of Police.
3. After obtaining permission, he should make an application for attachment of the property before the court, having jurisdiction to decide the matter.
4. The investigating officer shall furnish all the relevant information related to the property and shall annex all the requisite documents of the property in question before the court and will justify the request made in the application before the court.
5. The investigating officer shall also furnish the details of the persons/claimant to whom proceedings of the crime shall be distributed/ to the persons who are affected by such crime. When the Court is satisfied that the properties are proceeds of crime, the court may issue notice on the person to show cause "why an order of an attachment shall not be made"
6. The reply should be made by the person within the period of 14 days and investigating officer shall make all efforts to serve the notice to the accused/ claimant, in case, such identified property is held by any other person on behalf of such person.
7. A copy of notice shall be served upon such other person.

8. On receipt of the explanation and after reasonable opportunity is given to such person, the investigating officer shall impress upon the court with all the possible evidence in favour of the application, so that, the court may pass an order of attachment in respect of property which is found to be proceeds of crime.
9. An ex-parte order may be passed in case such person does not appear before the Court or represent his case, within period of 14 days specified in show cause notice.
10. In case, the investigating officer is of the opinion that the issuance of the notice would defeat the purpose of filing the application, the investigating officer shall request the court to pass an ex-parte order. If on the application of investigating officer, the Court is of the opinion that issuance of notice would defeat the object of attachment or seizure, the Court may pass an ex-parte, interim order directing attachment or seizure of such property.
11. In case, the Court finds that the attached or seized property are proceeds of crime, the investigating officer shall request the Court to direct the concerned District Magistrate to distribute such proceeds of crime to the person who are affected by such crime.
12. The investigating officer shall submit the order of the Court to the District Magistrate without any delay and shall request the District Magistrate to distribute the proceeds of crime within the period of 60 days from the date of receipt of order of the Court. The District Magistrate himself or authorize any officer subordinate to him to effect such distribution to the victims of crime.
13. If there are no claimants to receive such proceeds, then such proceeds of crime shall stand forfeited to the Government and the investigating officer shall make efforts for deposit of such proceeds of crime with the Government without any delay.
14. The investigating officer shall note that the attachment, forfeiture or Restoration of property can be done at any stage even before pronouncement of Judgment as the act is silent with regard to the stage when such forfeiture can be done in contrast to the provision under Criminal Law Amendment ordinance 1944 and or under Protection of Depositors Act 1999.
15. It is clear that the Investigating Officer has to obtain permission of the concerned SSP/SP and not the concerned Principal Secretary.

Issued for strict compliance.

Surendra Singh Yadav
04/10/24
(Surendra Singh Yadav, IPS)
Director General of Police,
Union Territory, Chandigarh

No. 9426-9476 /HAC/UT/Chandigarh dated:- 04/10/24

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