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Bonafide Professional Remuneration versus Procedure of Crime: Critical Analysis of Advocate Bank Account Freezes under Criminal Jurisprudence

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ABSTRACT

The freezing of bank accounts by investigating agencies is an important instrument in criminal investigations, particularly in cases involving financial fraud, corruption and money laundering. However, serious legal and constitutional questions arise when bank accounts belonging to practicing advocates are frozen merely because they have received professional remuneration from persons accused of criminal offences. An advocate performs an essential function in the administration of justice and is legally entitled to receive remuneration for genuine professional services. The mere representation of an accused person cannot automatically establish the advocate's involvement in criminal activity.

This paper critically examines the distinction between bona fide professional remuneration and proceeds of crime under Indian criminal jurisprudence. It analyses the statutory framework governing bank account freezing, constitutional protections, professional confidentiality and judicial interpretation of investigative powers. Particular attention is given to the Bharatiya Nagarik Suraksha Sanhita, 2023, the Prevention of Money Laundering Act, 2002 and relevant Supreme Court judgments. The paper argues that investigative powers must be exercised according to statutory requirements, procedural fairness and proportionality. It further proposes a five-fold judicial test to distinguish legitimate professional remuneration from money connected with criminal activity.

Keywords: Bona Fide Professional Remuneration, Proceeds of Crime, Advocates, Bank Account Freezing, Criminal Jurisprudence, Professional Independence, Money Laundering, Constitutional Rights.

1. INTRODUCTION

The independence of the legal profession is an essential element of the rule of law and the administration of justice. Advocates perform a significant constitutional function by representing individuals, protecting legal rights and ensuring access to justice[1]. In consideration of their professional services, advocates are entitled to receive reasonable remuneration from their clients.

[1] Constitution of india ,1950, art. 39A; Advocates Act, 1961, section 29-30.

However, a significant legal controversy arises when an advocate receives professional fees from a person accused of a criminal offence and the investigating agency subsequently freezes the advocate's bank account. Such action raises an important question: whether professional remuneration received in the ordinary course of legal practice can be treated as proceeds of crime merely because the person making the payment is an accused.

The legal position requires a distinction between an advocate who genuinely provides legal services and an advocate who knowingly participates in criminal transactions or assists in concealing unlawful assets.[2]

The fundamental issue is not whether an accused person can pay legal fees, but whether the payment represents genuine professional consideration or constitutes an instrument for transferring, concealing or projecting criminal proceeds as legitimate income.

This research examines the balance between investigative powers of the State and the constitutional protection of professional independence, livelihood and access to justice.[3]

2. RESEARCH OBJECTIVES AND METHODOLOGY

The principal objectives of this research are:

1. To examine the legal distinction between professional remuneration and proceeds of crime.
2. To analyse the statutory powers of investigating agencies to freeze advocates' bank accounts.
3. To examine the constitutional implications of indiscriminate bank account freezing.
4. To analyse relevant judicial pronouncements concerning investigative powers and professional independence.
5. To suggest procedural safeguards for protecting genuine professional remuneration.

Research Questions

- Can bona fide professional fees received by an advocate be treated as proceeds of crime merely because the client is an accused person?
- Whether freezing an advocate's entire bank account without establishing a sufficient connection with the alleged offence violates constitutional principles?
- What legal safeguards are necessary to protect professional independence?

Hypothesis

The indiscriminate freezing of advocates' bank accounts without establishing a prima facie connection between the disputed funds and the alleged criminal activity may constitute an arbitrary exercise of investigative powers and adversely affect the constitutional protection of professional independence and livelihood.

Research Methodology: This study adopts a doctrinal and analytical approach based on statutes, judicial decisions, constitutional provisions, legal commentaries and academic literature.

3. LEGAL FRAMEWORK GOVERNING BANK ACCOUNT FREEZING

3.1 Bharatiya Nagarik Suraksha Sanhita, 2023

Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023 empowers a police officer to seize property alleged or suspected to have been stolen or found under circumstances creating suspicion of the

[2] In Re: Summoning Advocates Who Give Legal Opinion or Represent Parties During Investigation of Cases and Related Issues,2025 INSC 1275 (Supreme Court of India, decided 31 October 2025).
[3] Constitution of India, 1950, article 14,19(1)(g),21 and 300A.

commission of an offence. The provision also requires the police officer to report the seizure to the jurisdictional Magistrate.[4]

Section 107 provides a separate procedure for attachment, forfeiture or restoration of property derived or obtained directly or indirectly through criminal activity. It requires the investigating officer to obtain approval from the Superintendent of Police or Commissioner of Police before applying to the competent Court or Magistrate.[5]

The distinction between seizure and attachment is legally significant. Section 106 concerns investigative seizure, whereas Section 107 establishes a judicial mechanism for attachment of property suspected to be proceeds of crime.

Therefore, the exercise of these powers must be supported by the relevant statutory conditions and a legally sustainable connection with the alleged offence.

3.2 Prevention of Money Laundering Act, 2002

The Prevention of Money Laundering Act, 2002 provides a specialised framework for dealing with proceeds of crime.

Section 2(1)(u) defines proceeds of crime as property derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence[6]. Section 3 defines the offence of money laundering, including knowingly assisting or being involved in activities connected with proceeds of crime.[7] Sections 5 and 17 provide mechanisms relating to provisional attachment and search and seizure.[8]

It is important to distinguish between the character of property as proceeds of crime and the criminal liability of the person receiving or dealing with that property. A payment may require investigation because its source is allegedly criminal; however, the advocate's criminal liability cannot be presumed merely from receipt of professional remuneration. The statutory ingredients of the relevant offence must be established.

4. NATURE AND LEGITIMACY OF PROFESSIONAL REMUNERATION

Professional remuneration represents consideration received by an advocate for genuine legal services, including drafting pleadings, providing legal opinions, conducting litigation and representing clients before judicial and quasi-judicial authorities.

The Advocates Act, 1961 and Bar Council of India Rules regulate professional conduct and standards.[9]

For the purpose of criminal jurisprudence, three situations must be distinguished.

First, Bona Fide Professional Remuneration: An advocate receives fees for genuine legal services rendered to a client. The existence of an advocate-client relationship, professional engagement, invoices, payment records and actual legal work may support the legitimacy of such remuneration.

Second, Suspicious Financial Transactions: Where remuneration is unusually high, unexplained or inconsistent with the services rendered, investigating agencies may examine its source and purpose. However, suspicion alone cannot establish criminal involvement.

[4] Bharatiya Nagarik Suraksha Sanhita,2023 section 106.
[5] Bharatiya Nagarik Suraksha Sanhita,2023 section 107.
[6] Prevention of Money-Laundering Act,2002 section 2(1)(u).
[7] Prevention of Money-Laundering Act,2002 section 3.
[8] Prevention of Money-Laundering Act,2002 section 5 and 17.
[9] Advocates Act 1961; Bar Council of India Rules, Part VI, Chapter II, particularly Rules 11-32.

Third, Active Participation in Criminal Activity: Where an advocate knowingly assists in concealing, transferring or projecting criminal proceeds as legitimate property, professional status cannot provide immunity from criminal investigation.

Thus, the decisive consideration must be the actual nature of the transaction, the source of funds, the services rendered and the advocate's knowledge or participation in the alleged criminal activity.

5. CONSTITUTIONAL DIMENSIONS OF FREEZING ADVOCATES' BANK ACCOUNTS

5.1 Article 19(1)(g): Freedom of Profession

Article 19(1)(g) guarantees the right to practise any profession, subject to reasonable restrictions under Article 19(6)[10].

An arbitrary freezing order may substantially interfere with an advocate's ability to practise law, particularly where the entire operating account is blocked without sufficient justification.

5.2 Article 21: Right to Life and Livelihood

The Supreme Court in *Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545, recognised the relationship between livelihood and the right to life under Article 21.[11]

Freezing an advocate's entire bank account may affect ordinary living expenses, office expenditure, employees' salaries and professional obligations. Therefore, the consequences of such action must be considered while examining its legality and proportionality.

5.3 Article 14: Protection Against Arbitrariness

Article 14 prohibits arbitrary State action. Investigative powers must be exercised on relevant material and through a fair procedure.[12]

Freezing an entire bank account without identifying the disputed transactions or considering unrelated legitimate deposits may raise serious concerns regarding arbitrariness and proportionality.

5.4 Article 300A: Right to Property

Article 300A provides that no person shall be deprived of property except by authority of law. A bank balance represents a legally recognised property interest. Accordingly, restrictions upon it must have a valid statutory foundation and comply with the applicable procedure.[13]

6. JUDICIAL PRONOUNCEMENTS AND CRITICAL ANALYSIS

6.1 State of Maharashtra v. Tapas D. Neogy,

The Supreme Court held that a bank account constitutes property within the meaning of Section 102 of the Code of Criminal Procedure, 1973, and may be seized where the statutory requirements are satisfied.[14]

This judgment recognises the investigative authority of the police. However, it does not establish an unrestricted power to freeze every bank account belonging to a person connected with an accused.

Its significance lies in the requirement that the property must have a legally relevant connection with the alleged offence.

6.2 Nevada Properties Pvt. Ltd. v. State of Maharashtra,

The Supreme Court examined the scope of police powers under Section 102 CrPC and held that the pro-

[10] Constitution of Indi, 1950 ,article 19(1)(g) and 19(6).
[11] Olga Tellis v. Bombay Muncipal Corporation,(1985) 3 SCC 545.
[12] E.P. Royappa v. Stte of Tamil Nadu, (1974) 4 SCC 3.
[13] Constitution of India, 1950, article 300A; K.T. Plantation Pvt. Ltd. V. State of Karnataka, (2011) 9SCC 1.
[14] State of Maharashtra v. Tapas D. Neogy, (1999) 7 SCC 685.

vision does not authorise seizure or attachment of immovable property.

Although the judgment primarily concerns immovable property, it is relevant to understanding the statutory limitations of police seizure powers and the distinction between seizure and attachment.[15]

6.3 The State of West Bengal v. Anil Kumar Dey,

In this decision dated 10 December 2025, the Supreme Court examined whether police authorities could freeze bank accounts under Section 102 CrPC in proceedings involving the Prevention of Corruption Act, 1988.

The Court held that the power under Section 102 CrPC and the attachment mechanism under Section 18A of the Prevention of Corruption Act operate independently and can coexist.[16]

The judgment is important because it clarifies that investigative seizure and statutory attachment are distinct legal mechanisms. It also demonstrates that the legality of freezing must be examined with reference to the applicable statutory framework.

Although the judgment does not directly concern advocates' professional fees, its principles are relevant to the present research.

6.4 In Re: Summoning Advocates Who Give Legal Opinion or Represent Parties During Investigation of Cases and Related Issues,

This Supreme Court judgment dated 31 October 2025 is particularly significant for the present research.

The Court examined the circumstances in which investigating agencies may summon advocates representing accused persons, particularly in the context of Section 132 of the Bharatiya Sakshya Adhiniyam, 2023.[17]

The Supreme Court emphasised the importance of client-advocate confidentiality and issued directions restricting the summoning of advocates merely to obtain details of cases in which they represent accused persons.

The Court also clarified that where an exception under Section 132 is invoked, the grounds must be expressly stated and supported by written approval of a superior police officer not below the rank of Superintendent of Police. Such summons remain subject to judicial review.

Although the judgment concerns professional communications and summoning rather than bank account freezing, it establishes an important principle: legitimate professional representation must not itself become a basis for unnecessary investigative interference.

6.5 Sri Pramoda Gowda T.P. v. State of Karnataka,

This is a highly relevant decision of the Karnataka High Court concerning the freezing of a practising advocate's bank account on the ground that he had received money allegedly connected with a disputed transaction.[18]

The petitioner, a practising advocate, received ₹50,000 through the son of his client towards professional and legal fees for drafting pleadings and instituting legal proceedings. Despite the absence of any allegation against the advocate in the underlying complaint, the investigating officer directed the bank to mark a lien over the amount.

[15] Nevada Properties Pvt. Ltd. V. State of Maharashtra, (2019) 20SCC 119.
[16] The State of West Bengal v. Anil Kumar Dey, 2025 Insc 1413 (Supreme Court of India, decided 10 December 2025)
[17] Bharatiya Sakshya Adhiniyam,2023, section 132; In Re: Summoning Advocates Who Give Legal Opinion or Represent Parties During Investigationof Cases and Related Issues 2025 INSC 1275 (Supreme Court of India, decided 31 October 2025)
[18] Sri Pramoda Gowda T.P. v. State of Karnataka, W.P. NO. 16072 of 2025, Neutral Citation No. 2026: KHC: 18546 (Karnataka High Court, decided 6 April 2026).

Justice Sachin Shankar Magadum observed that freezing or restricting a bank account is a drastic measure which cannot be exercised in a routine, mechanical or arbitrary manner. The Court specifically recognised that such action may adversely affect an advocate's professional engagements, financial autonomy, reputation and obligations towards clients.

The Court found that the amount of ₹50,000 represented legitimate professional remuneration and could not be treated as proceeds of crime in the circumstances of the case.

Held: The Karnataka High Court allowed the writ petition and directed the investigating officer to withdraw the lien of ₹50,000 and restore normal operation of the advocate's bank account.

Relevance to the Present Research: This judgment directly supports the proposition that bona fide professional remuneration cannot be automatically characterised as proceeds of crime without establishing a prima facie nexus with the alleged criminal activity.

6.6 Channakeshava D.R. v. State of Karnataka,

In this matter, a practising advocate challenged the freezing of his Karnataka Bank account following a complaint registered at the Cyber Crime Police Station, Indore, Madhya Pradesh.[19]

The advocate contended that the amount received in the account represented professional fees paid by a client and was not connected with any illegal activity.

The Karnataka High Court emphasised that complete freezing of a bank account cannot be ordered casually or mechanically. There must be a live and proximate connection between the funds and the alleged criminal activity, supported by tangible material.

The Court considered the proportionality of freezing the entire account when the disputed amount was only ₹60,000.

Held: The Court directed the bank to defreeze the account while retaining a lien of ₹60,000 corresponding to the disputed amount, thereby allowing the advocate to operate the remaining balance.

Relevance to the Present Research: The decision demonstrates the distinction between restricting a specific disputed amount and freezing the entire bank account. It supports the principle of proportionality and protection of legitimate professional income.

6.7 Ayush Bajpai v. State of Uttar Pradesh,

This matter is particularly significant because it directly addresses whether fees paid by an accused client to an advocate can be treated as proceeds of crime.[20]

The petitioner, Ayush Bajpai, a practising advocate, challenged the freezing of his bank account by the Uttar Pradesh Police Cyber Cell. The account had been frozen on the allegation that professional fees received from a client facing cyber-fraud allegations might form part of the money allegedly siphoned off.

The Division Bench comprising Justice J.J. Munir and Justice Arun Kumar observed that an advocate may receive fees from a client irrespective of the client's social standing or alleged criminal involvement. The Court made an important distinction between an advocate receiving lawful remuneration and an advocate personally participating in criminal activity.

[19] Channakeshava D.R. v. State of Karnataka, W.P. No. 1901 of 2026, Neutral Citation No. 2026:KHC:19585(Karnataka High Court, decided 8 April 2026) .

[20] Ayush Bapai v. State of Uttar Pradesh, Writ-C No. 24589 of 2026, interm order dated 25 June 2026 (Allahabad High Court).

The Court also expressed concern that indiscriminate freezing of advocates' accounts could interfere with the administration of justice and the discharge of professional duties under the Advocates Act, 1961.

Held / Interim Directions: The Court directed the Additional Chief Secretary (Home), Uttar Pradesh, to submit an affidavit explaining the safeguards governing the seizure or freezing of advocates' bank accounts. It also directed the Cyber Cell and the concerned SBI branch manager to file counter-affidavits. The matter was listed for further hearing on 17 July 2026.This matter was subsequently disposed of on 3 september 2026 in term of the decision in Ashish Rawat v. Union of india, Writ-C No. 1489 of 2026,decided on8 April 2026. The later disposal should not be represented as a final adjudication of every legal observation made in the earlier interim order. [21]

Relevance to the Present Research: This order provides direct judicial support for the distinction between legitimate professional remuneration and criminal proceeds. However, it should be cited as an interim judicial order and not as a final determination of the entire dispute.

6.8 Comparative Judicial Analysis

The above decisions reveal an emerging judicial approach towards protecting advocates from arbitrary restrictions on their bank accounts.

The Karnataka High Court decisions in *Sri Pramoda Gowda T.P.* and *Channakeshava D.R.* emphasise the requirement of a demonstrable nexus between the disputed funds and the alleged offence, while also recognising the importance of proportionality.

Similarly, the Allahabad High Court's observations in *Ayush Bajpai* directly address the legal character of professional remuneration received from an accused client.

Collectively, these decisions support three important propositions:

1. The identity or criminal status of the payer does not, by itself, determine the legal character of professional remuneration.
2. Investigating agencies must establish a legally relevant connection between the disputed funds and the alleged offence.
3. Freezing the entire bank account should not be treated as an automatic consequence when a specific disputed amount can be identified and protected through a less restrictive measure.

These developments strengthen the argument that professional independence, financial autonomy and effective criminal investigation must be balanced through statutory compliance, proportionality and procedural fairness.

7. PROPORTIONALITY AND PROCEDURAL SAFEGUARDS

The indiscriminate freezing of bank accounts may impose restrictions beyond what is necessary for an investigation.

For example, suppose an advocate receives ₹50,000 as professional remuneration from a client accused of a criminal offence. Subsequently, the investigating agency freezes the advocate's entire bank account containing ₹10 lakh, including savings and payments received from unrelated clients.

In such circumstances, the investigating agency should examine whether the disputed amount has any demonstrable connection with the alleged offence.

[21] Ayush Bapai v. State of Uttar Pradesh, Writ-C No. 24589 of 2026, Neutral Citation No. 2026:AHC: 185031-DB (Allahabad High Court, decided 3 September 2026); Ashish Rawat v. union of India, Writ-C No. 1489 of 2026 (Allahabad High Court, decided 8 April 2026).

The following safeguards are therefore suggested:

1. **Reasoned Orders:** Freezing orders should identify the statutory basis and relevant grounds for the action.
2. **Identification of Suspicious Funds:** Investigating agencies should identify the amount reasonably suspected to be connected with criminal activity.
3. **Protection of Unrelated Transactions:** Legitimate professional receipts should not automatically be subjected to restrictions merely because they are deposited in the same account.
4. **Judicial Oversight:**The competent Court or Magistrate should exercise supervision in accordance with the applicable statutory procedure.
5. **Opportunity of Representation:** Advocates should have an effective opportunity to challenge unlawful or excessive restrictions.
6. **Time-Bound Review:** Continued restrictions should be periodically examined to determine whether they remain necessary.

These safeguards would maintain a balance between the interests of criminal investigation and the independence of the legal profession.[22]

8. PROPOSED FIVE-FOLD JUDICIAL TEST

This research proposes a five-fold judicial test to distinguish genuine professional remuneration from proceeds of crime.

1. **Professional Engagement Test:** Whether a genuine advocate-client relationship existed and identifiable legal services were actually provided.
2. **Source of Funds Test:** Whether the payment originated from a legitimate source or can be traced to property derived from criminal activity.
3. **Nexus Test:** Whether there is a demonstrable connection between the particular funds and the alleged criminal activity.
4. **Knowledge and Participation Test:** Whether the advocate knowingly participated in the commission of an offence, concealment of criminal proceeds or money laundering, as required by the applicable statutory provisions.
5. **Proportionality Test:** Whether freezing the entire bank account is necessary or whether a less restrictive measure, such as restricting the identified suspicious amount, would adequately serve the investigative purpose.

This proposed test is an original academic recommendation and is not an existing statutory provision or a judicially established test.

9. FINDINGS AND SUGGESTIONS

The research identifies that the mere representation of an accused person does not establish an advocate's involvement in criminal activity. Genuine professional remuneration must be distinguished from criminal proceeds through examination of evidence, financial transactions and the nature of professional services.

[22] Modern Dental College and Research Centre v. State of Madhya Pradesh, (2016) 7SCC 353: Om Kumar v. Union of India, (2001) 2SCC 386 .

Professional privilege cannot protect an advocate who knowingly participates in criminal transactions. Equally, investigative powers cannot be exercised arbitrarily merely because an advocate has received money from an accused person.

It is therefore suggested that investigating agencies develop clear guidelines for examining professional remuneration, identify the disputed funds, provide effective opportunities for judicial review and avoid unnecessary restrictions on unrelated legitimate deposits.

10. CONCLUSION

The power to freeze bank accounts is an important instrument in criminal investigation, particularly in cases involving financial offences, corruption and money laundering. Nevertheless, the exercise of such power must remain subject to statutory limitations, constitutional guarantees and procedural fairness.

An advocate receiving genuine professional remuneration from a client does not automatically become a beneficiary of criminal proceeds merely because the client is accused of an offence. The legal character of such remuneration must be determined by examining the actual professional services, source of funds, financial transactions and the advocate's involvement, if any, in the alleged criminal activity.

At the same time, professional status cannot be used as a shield for concealing or transferring unlawful wealth. Where evidence establishes an advocate's knowing participation in criminal transactions, the law must operate without professional exemption.

The ultimate objective of criminal jurisprudence should therefore be to maintain a fair balance between effective criminal investigation and professional independence.

The fundamental principle is that professional remuneration cannot be equated with proceeds of crime merely on the basis of the identity of the payer; its legal character must be determined through evidence, statutory requirements and due process of law.

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