SUPREME COURT OF SEYCHELLES

Reportable
XP 15/2025

In the ex parte matter of:

THE GOVERNMENT OF SEYCHELLES **Applicant**
(Represented by Mr Barry Galinoma, state counsel)

Neutral Citation:	*The Government of Seychelles* (XP 15/2025) (02 May 2025)
Before:	Adeline J
Summary:	Application for an interim order under Section 3 (1) of the Proceeds of Crime (Confiscation) Act, 2008 "POCCCA"
Heard:	26 March 2025
Delivered:	2 May 2025

ORDER ON MOTION

Adeline, J

[1] This is an ex parte application commencing legal proceedings in the Supreme Court by way of Notice of Motion pursuant to Rule 4 (1) read with Rule 6 (1) – (4) and Rule 7 (1) of the Proceeds of Crime (Civil Confiscation) (Procedure) Rules 2016, by which application, the Government of Seychelles, ("the Applicant") applies this court for an interim order pursuant to Section 3 (1) of the Proceeds of Crime (Civil Confiscation) Act, 2008 as amended ("POCCCA"). In its pleadings, the Applicant applies for the following orders;

"(1) … an Interim order … prohibiting the Respondent or any other person specified in the order from disposing of or otherwise dealing with whole or any part of the property, or diminishing the value of the property as set out in the table appended to this Notice of Motion.

(2) That on the making of an order under (1) above, Sean Nanty or such other person as this court shall direct, be appointed as receiver over all or part of the said property to take

possession of any property to which the order relates and to manage, keep possession or dispose of, or otherwise deal with any other property in respect of which he is appointed in accordance with the court's discretion pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act, 2008 as amended, and

(3) Such further or other order as the court shall deem just and proper in all circumstances in this case".

[2] It is pleaded in the application, that the grounds upon which the Applicant seeks for the orders specified at (1) – (3) above, are the following;

(i) That Bybit Fintech Limited is in possession or control of specified property, that is to say, the property set out in the table appended to the Notice of Motion, and that the said property constitutes direct or indirect benefit from criminal conduct.

(ii) The total value of property mentioned in (i) above is not less than SCR 50,000.00

(iii) The manner in which the fraud was conducted and the subsequent transfer of the crypto currency to account held at Bybit exchange.

(iv) *That according to the investigation of Inspector Sean Nanty, he is of the belief that the criminal conduct of which the said properties have been acquired in whole or in part, is conspiracy to Defraud, Obtaining Goods by False Pretence, Cheating, Theft of Crypto Currency and Money Laundering*.

[3] The Applicant relies on the affidavit of Police Inspector Sean Nanty ("Insp Nanty") and te documentary evidence exhibited to his affidavit.

[4] In his supporting affidavit to the application, Insp Nanty of the Seychelles Police force, currently attached to the Financial Crime Investigation Unit ("FCIU") avers, that he has made reasonable investigation into the matter leading to the making of such application for an interim order under Section 3 (1) of POCCCA, and that his affidavit evidence is based on his belief having regards to Section 9 (1) and 9 (2) of POCCCA. Section 9 (1) of POCCCA is couched in the following terms;

"9 (1) Where the Director or Deputy Director stated in proceedings under Section 3 or 4 on affidavit or if the court so permits or directs, in oral evidence, that he believes, that;

(a) the respondent is in possession or control of specified property and that the property constitutes, directly or indirectly benefit from criminal conduct, or

(b) the respondent is in possession or control of specified property and that the property was acquired, in whole or in part, with or in connection with the property that, directly or indirectly constitutes benefit from criminal conduct, and

(c) *the value of the property or as the case may be the total value of the property referred to in both paragraphs (a) and (b) is not less than SCR 50,000, then, if the court is satisfied that there are reasonable grounds for the belief aforesaid, the statement shall be evidence of the matters referred to in paragraph (a) or in paragraph (b) or in both paragraphs (a) and (b) as may be appropriate, and of the value of the property*"

[5] Section 9 (2) of POCCCA, is couched in the following terms;

"*9(2) The Applicant shall not make an application under Section 3 or 4 or submit evidence of this belief described in this section, except after reasonable enquiries and investigation and on the basis of credible and reliable information that he has reasonable grounds for suspecting;*

(a) the respondent is in possession or control of specified property and that the property constitutes directly or indirectly, benefit from criminal conduct, or

(b) *the respondent is in possession or control of specified property and that the property acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes benefit from criminal conduct, and that the value of the property or as the case maybe the total value of the property referred to in subsection (1) (a) and (b) is not less than SCR 50,000*".

[6] In her affidavit in support of the application, *inter alia*, Insp Nanty makes the following averments;

"*4. That this application is being brought against Bybit also identified as Bybit Fintech Limited, an International Business Company (IBC) registered in the Seychelles. Its IBC registration number is 226958 and it was incorporated on 12th March 2021. ("the Respondent"). The registered address of the Respondent is House of Francis, Room 303, Ile Du Port, Mahe, Seychelles.* ***I beg to refer to a copy of the said registration certificate of BTSE Holdings Limited upon which marked as exhibit SN1, I have signed my name prior to the swearing hereof.***

5. That the Bybit exchange is the name that Bybit Fintech Limited uses for their exchange.

6. That the grounds for my said beliefs aside from my own investigations include the initial assistance request, various discussions and communications which I have had with Mr. Jonathan Weirich, who is a Police Officer employed by the City of Powell Police Department, who carried out the initial investigation in this matter before it was passed on to the FCIU.

7. That after reviewing the request, I communicated with Mr. Jonathan Weirich, who is a Police Officer employed by the City of Powell Police Department, requesting that he compiles an affidavit setting out the details of the case and investigation carried out at his end. I further requested that the document be signed and sworn before a public notary, apostilled and sent my way. That the sworn and notarized affidavit was received in soft copy through email and the physical sworn, notarized and apostilled copy is on the way, being couriered to our office which I will attach to the Section 4 application. ***I beg to refer to a copy of the said affidavit from Police Officer Jonathan Weirich, upon which marked as exhibit SN2, I have signed my name prior to the swearing hereof.***

8. That this application is brought following receipt of a request for assistance from the City of Powell, OH, USA. That the investigation is about a theft by deception, that affected the victim, Carole W. Smith. That this request is seeking assistance to freeze and return the stolen funds to the victim.

BACKGROUND

9. That according SN2, to Police Officer Jonathan Weirich, in paragraph 6, on the 31st July 2024, states that the victim, Carole W. Smith was contacted by an individual claiming to represent Norton Identity Theft Protection regarding alleged fraud on her account. The caller also claimed that her account showed Norton owed her $250. Carole provided her bank account information, after which the individual deposited $25,000 into her account. The individual then stated the deposit was an error and instructed Carole to repay the difference to Norton using Bitcoin. The $25,000 would later be removed from Victim's bank account by the bank as an insufficient check deposit.

10. That I have consulted the relevant Section of the said Penal Code and found that "False pretence" is any representation made by words, writing or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence. Provided however that, a person who enters into a contract without intending to perform his obligations thereunder shall be deemed to make a false pretence.

11. That furthermore, I have found that any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, could be liable on conviction to imprisonment for 3 years.

12. That further consultation of the said Seychelles Penal Code revealed that any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or devices, could be liable on conviction to imprisonment for 3 years.

13. That according to paragraph 7 of SN2, Carole followed the suspect's instructions, and on 31 July 2024, at approximately 4:29 PM, she transferred 0.32382246 Bitcoin (equivalent to $24,170 USD) to the wallet address below, that was provided by the suspect:

- ***12xk1qNZoRVoLWXEowY3EiZbo2yWWp3GXm**.*

14. That Bitcoin is a type of digital currency, also known as a cryptocurrency, that operates independently of a central authority such as a government or financial institution. It is decentralized and managed through a technology called Blockchain, which is a secure and transparent public ledger that records all transactions.

15. That Bitcoin can be used to buy goods and services or transferred between individuals. Transactions are verified by a network of computers, and ownership is stored in digital wallets. It is often traded on online platforms and can be converted into traditional currencies like USD or EUR. However, due to its decentralized nature, Bitcoin transactions are typically irreversible and can sometimes be used in fraudulent or criminal activities, as it allows users to remain anonymous to a certain extent.

16. That according to paragraph 8 of SN2, the victim, Carole was contacted again by the suspect, who claimed that not all the funds from the first transaction had been received and instructed her to send the funds again. On 1 August 2024, at approximately 3:14 PM, Carole transferred 0.13321812 Bitcoin (equivalent to $9,700 USD) to the another wallet address provided by the suspect: ***1Fyn8zUvmF2eptm8Gcpo7LP1ZAFTVwzjnX.***

17. That according to paragraph 9 of SN2, Carole went on vacation and lost cellular service. Upon her return approximately a week later, she noticed numerous missed calls and ongoing attempts by the suspect to contact her in an effort to obtain more money. Realizing it was a scam, Carole reported the matter to the City of Powell Police on 15 August 2024. Powell Police initiated an investigation into the incident, classifying it as a 4th-degree felony theft.

18. That the victim had purchased a total of ***0.457040058 Bitcoin****, and lost equivalent to* ***$29,722 USD,*** *at the time of report.*

ANALYTICS

19. That according to paragraph 10 of SN2, Powell Police, with the assistance of Ohio Department of Public Safety Analyst Diaz, were able to trace the funds.

20. According to SN2, in paragraph's 11 – 19, the funds were traced through three exchanges; HTX and Bitget, after finally reach the Bybit Exchange.

21. That according to SN2, in Appendix A, the first transaction was performed by the victim on 31/07/2024, in which the victim deposited $21,077 USD (0.323822 BTC) into a Bitcoin Depot ATM. The funds were then deposited into likely suspect wallet address 12xk1qNZoRVoLWXEowY3EiZbo2yWWp3GXm. Suspect wallet address (12xk1qN ...) sent the deposited funds to wallet address 1PwcHDiSyEgy1PecE3qr7hXuNmhuzQmxQC. Wallet address (1PwcHD ...) sent the funds to wallet address 14c23Yu6nUXNDVgS3yqv3bvSTVLbZXDbHM. Wallet address (14c23Yu…) and finally sent the deposited funds to HTX cryptocurrency exchange wallet, 1An7dEWimGWEFys8b6ZyxZpLigHr92PpGM.

22. That the second transaction performed by the victim, on 01/08/2024 the victim deposited $8,645 USD (0.133218 BTC) into a Bitcoin of America ATM. The funds were then deposited into the likely suspect wallet address 1Fyn8zUvmF2eptm8Gcpo7LP1ZAFTVwzJnX. Suspect wallet address (1Fyn8z…) sent the deposited funds to wallet address 1NjdDUECbmycszabmfi8e49Kzodwj1GZyc. Wallet address (1NjdDUE…) sent the funds to wallet address 1F33CEBro6d5HJjb4fMJYy4MqAknZ5USPJ. Wallet address (1F33CEB…) sent the funds to HTX cryptocurrency exchange wallet, 1An7dEWimGWEFys8b6ZyxZpLigHr92PpGM.

23. That after the funds reached the HTX Wallet, Jonathan states that subpoena results indicate the funds were co-mingled with other unknown funds. That an internal cryptocurrency swap was initiated and the victims BTC were swapped from BTC to USDT on the Tron network. That after the swap was initiated, the funds were sent to the wallet address below:

- *TGTH4aTvQq82dnehPtGUR7uPxnN7VTLvQn*

24. That a cryptocurrency swap is the process of directly converting one type of cryptocurrency asset, such as Bitcoin, into another cryptocurrency asset, such as USDT.

25. That the funds were then traced to a Bitget wallet, and once the funds reached the Bitget wallet, Jonathan states that subpoena results indicate that the victims' funds were mixed with other unidentified funds. An internal cryptocurrency swap converted the co-mingled USDT into Arbitrum Governance Tokens on the Arbitrum network. The resulting tokens were transferred to wallet address 0x6ce98461de0f7ca2e467ac6ebca2213dc54e72ea, which then forwarded the funds to wallet address 0x05a670c40e938bbc4b3dce7304f1fb2db6795f15. Subsequently, this wallet transferred the funds to the Bybit cryptocurrency exchange.

26. That according to SN2, Jonathan states that the funds appeared to remain in the Bybit account. That a subpoena was served to Bybit regarding the above transaction/wallet. Bybit identified the wallet as belonging to a user with: UID 16298040 (IND). That contact was made to Bybit, who stated that the account belongs to a resident of India and that they require a Mutual Legal Assistance Treaty (MLAT) from India to release any personal identifying information and/or facilitate the seizure of funds.

27. That attached to SN2, is Appendix A, which illustrates the flow of funds from the victim's account to the Bybit account owned by the suspect. That I have reconstructed the graph based on my own analysis and investigations performed by City of Powell Police. ***I beg to refer to an extract of the graph upon which marked SN3 I have signed my name prior to the affirming hereof.***

28. According to SN3, the graph delineates the transactions explained in SN2 by Jonathan, linking the initial transactions from the victim to the suspects' wallet addresses on exchanges Huobi, Bitget, and Bybit. The initial transactions, as stated in SN2, were conducted through a Bitcoin ATM, likely located at bc1q0wu0tqp2u3rtunjl0h0rsl9pvf86acy6sep63st0lp7lgg67ykzqeq89pn. The victim used this ATM to transfer funds to two addresses controlled by the suspect:

- *12xk1qNZoRVoLWXEowY3EiZbo2yWWp3GXm*
- *1Fyn8zUvmF2eptm8Gcpo7LP1ZAFTVwzJnX*

29. That subsequent to the deposits to the suspect-controlled addresses, the funds underwent several transactions before ultimately reaching a HTX wallet address, between 31/07/2025 and 01/08/2024 to 1An7dEWimGWEFys8b6ZyxZpLigHr92PpGM. That based on subpoena results provided to Jonathan by HTX, I requested that he provides me with a copy through email to identify the account owner of the final destination wallet address. That based on my analysis on the provided document, I identified that the account holder belongs to an individual, named; Jawed Ahmad Khan with UID 491854024.

30. That as per SN3, and investigations in SN2, the funds were co-mingled with other unknown funds and an internal cryptocurrency swap was conducted to exchange BTC for USDT on the Tron network. That between 31/07/2024 and 02/08/2024, a total of 57,827.02 USDT were swapped and then transferred to the wallet address: TGTH4aTvQq82dnehPtGUR7uPxnN7VTLvQn.

31. According to SN3, after the funds were swapped and transferred to the address beginning with TGTH4, on 02/08/2024, 83,700 USDT were transferred to the wallet address THeaKusG4bFuTDKTKHb6hRpRkUPz2zxsxo, a deposit address belonging to the Bitget exchange, as detailed in SN3. That furthermore, the victim's funds were co-mingled with other received funds by the suspect and on 02/08/2024, the Bitget address mentioned, sent approximately 138,842 USDT to a Bitget Hot Wallet.

32. That the FCIU sent a letter to Bitget through the Kodex platform requesting further details on the account holders and history of the account with wallet address THeaKusG4bFuTDKTKHb6hRpRkUPz2zxsxo. ***I beg to refer to a copy of the said letter upon which marked as exhibit SN4, I have signed my name prior to the affirming hereof.***

33. That according to my own analysis of the documents provided by Bitget and through research carried out, I was able to determine that the Bitget account is held by an Indian national, SEKHU HABIBULLA (UID: 3143208589), as confirmed by the response received from Bitget, marked as Exhibit SN5, the account details are as follows: KYC status is Bound, full name is SEKHU HABIBULLA, nationality is India, ID type is National ID, ID number is 826455373251, DOB, 01/01/1988, mobile number is (91) 7001315608, email address is najminara9@gmail.com, the registered Bitget account also indicates an IP address of 202.142.67.87 and a country/region of India – West Bengal. ***I beg to refer to a copy of the response received from Bitget upon which marked as exhibit SN5, I have signed my name prior to the affirming hereof.***

34. That according to SN2, and my own analysis in SN3, after the funds reached the Bitget exchange, the victim's funds were co-mingled with other funds and that on 02/08/2024, an internal cryptocurrency swap was initiated and the co-mingled USDT funds, were swapped for 131,430.02 Arbitrum Governance Tokens on the Arbitrum network and were sent to the wallet address 0x6ce98461de0f7ca2e467ac6ebca2213dc54e72ea.

35. That further to the above transaction, on 05/08/2024, the address 0x6ce984 sent 131,600.02 ARB token to a deposit wallet address: 0x05a670c40e938bbc4b3dce7304f1fb2db6795f15, belonging to Bybit exchange. That in SN2, based on the investigations performed by City of Powell police, it was identified that the address belonged to a User ID: UID 16298040 (IND).

36. That the FCIU sent a letter to Bybit requesting further details on the account holders and history of the account with User ID, UID 16298040 (IND). ***I beg to refer to a copy of the said***

letter upon which marked as exhibit SN6, I have signed my name prior to the affirming hereof.

37. That based on my analysis of the documents provided by Bybit and the research carried out, I have determined that the Bybit account is held by an Indian national—most likely, the same individual identified in SN5. I refer to the response received from Bybit; the account details are as follows: BYBIT UID is 16298040 (IND); First Name is SEKH HABIBULLA; Email is skhabibulla1988@gmail.com; Phone Number is 91 9475495905; Date of Birth is 01 January 1988; and Country of Nationality is IND. ***I beg to refer to a copy of the response received from Bitget upon which marked as exhibit SN7, I have signed my name prior to the affirming hereof.***

38. That according to investigation performed by City of Powell police in SN2, and based on my own investigations in SN3, it is identified that the Indian national, is the recipient of the victim's funds that was stolen between 31st July and 1st August 2024.

39. That according to the Bybit, UUID 16298040, Account balance approximately to USD value as of 16th December 2024 is listed in the below table.

Items	*Account*	*Description*	*Amount (Tokens)*	*Estimated Value (USD)*
1	*Funding*	*USDT*	*93289.31456*	*93289.31456*
		1INCH	*40293.11334*	*12903.73*
		ETH	*1.99845*	*6420.96*
		BICO	*44256.30327*	*10988.33*
2	*Unified Trading Account*	*GENE*	*2085.401403*	*595.88*
		USDT	*185725.8637*	*185572.43*
		MYRO	*13182.38573*	*524.90*
		SUI	*30.53943*	*135.07*

TOTAL	*ESTIMATED USD VALUE OF CRYPTOCURRENCY ON 23rd January 2024*	*USD 310,430.6146*

40. That the FCIU is conducting further investigation into the matter and the FCIU anticipates that it will bring an Interlocutory Application pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended within 30 days of this application being granted.

41. That it is my belief under section 9 of the Proceeds of Crime (Civil Confiscation) Act;

i. That Bybit Fintech Limited is in possession or control of specified property that is to say the property set out in the table appended to the Notice of Motion and that the said property constitutes direct or indirect benefit from criminal conduct.

ii. That the Respondent is in possession or control of specified property and that is to say the said property mentioned in the table appended to the Notice of Motion and that the property is the proceeds of criminal conduct namely conspiracy to defraud, obtaining goods by false pretence, cheating, theft, money laundering, unauthorized access to computer systems and access with criminal intent.

iii. The total value of property mentioned in (i) and (ii) above is not less than SCR 50,000.00.

42. That the grounds for my said belief are the averments mentioned in this affidavit including;

a. The manner in which the fraud was conducted and the subsequent transfer of the crypto currency to account held at Bybit exchange.

b. *That according to my own investigation as per the above paragraphs, I am of the belief that the criminal conduct of which the said properties have been acquired in whole or in part, is Conspiracy to defraud, Obtaining goods by false pretence, Cheating, Theft of crypto currency and Money Laundering.*

[7] I have carefully considered this application for an interim order under Section 3 (1) of POCCCA, and meticulously analysed the affidavit evidence of Insp Nanty as well as the documentary evidence exhibited therewith in support of the averments made therein. I am satisfied, that the Applicant has made out a case for an interim order under Section 3 (1) of POCCCA given that the statutory requirements for the making of such order as prescribed under Section 3(1) (a) (i) and (ii) and (b) of POCCCA are met.

[8] I am equally satisfied, that reasonable enquiries and investigations have been carried out in compliance with Section 9 (2) (a) and (b) of POCCCA, and that the Applicant's belief pursuant to Section 9 (1) (a), (b) and (c) of POCCCA stands on strong grounds based on credible and reliable information.

[9] For the aforementioned reasons stated at paragraph [8] above, in accordance with Section 3 (1) of POCCCA, the application is granted, and accordingly, I make an interim order the terms of which are specified hereunder;

(i) Bybit Fintech Limited ("Bybit"), an International Business Company incorporated under the International Business Act, 2016 or any other person, is prohibited from disposing of, or otherwise dealing with whole or any part of the property, or diminishing the value of the property as set out in the table appended to the application and to this order.

(ii) Inspt Sean Nanty is appointed as receiver over all of the said property, to take possession of any property to which this order relates, and to manage, keep possession or dispose of, or otherwise deal with any other property in respect of which he is appointed pursuant to Section 8 of POCCCA.

(iii) A copy of this order shall be served on Bybit Fintech Limited, which registered address is, House of Francis, Room 303, Ile Du Port, Mahe, Seychelles, and

(iv) This order shall be valid and effective for a period of 30 days as of today.

Signed, dated and delivered at Ile du Port 2nd May 2025.

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Adeline J