

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-51021-2025
Date of decision: 29.10.2025**

AVTAR SINGH

....Petitioner

Versus

KARNESH

....Respondents

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Dheeraj Narula, Advocate for the petitioner.

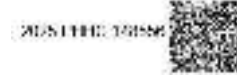
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RUPINDERJIT CHAHAL, J. (ORAL)

1. Instant petition has been filed for quashing/setting aside of order dated 05.06.2025 passed by the Court of learned Judicial Magistrate Ist Class, Ellenabad in case No. NACT-62/2021 titled as '*Karnesh vs. Avtar Singh*' whereby Ld. JMIC, Ellenabad has directed the petitioner to pay interim compensation to the tune of 20% of the cheque amount without considering whether the case of the petitioner falls within exception or not.

2. Brief facts of the present case are that the complainant filed a complaint under Section 138 of the NI Act alleging that the petitioner borrowed ₹9,00,000/- on 20.01.2020 and, in discharge of liability, issued cheque No. 785905 dated 01.02.2021 drawn on Punjab National Bank. The cheque was returned unpaid with remarks "Funds Insufficient" vide memo dated 03.02.2021, leading to the present complaint. During proceedings, the complainant moved an application under Section 143A NI Act seeking 20% interim compensation. Despite the petitioner's reply, the Ld. Trial

Court, vide order dated 05.06.2025, directed payment of 20% of the



cheque amount. The petitioner, therefore, seeks quashing of the impugned order dated 05.06.2025.

3. Learned counsel for the petitioner contends that Section 143A is discretionary, not mandatory, as the word “may” cannot be read as “shall.” He further contends that the learned trial Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the cheque amount and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon’ble Supreme Court in **Criminal Appeal No.741 of 2024** titled as “**Rakesh Ranjan Shrivastava vs. The State of Jharkhand and another**”, decided on 15.03.2024. Speaking through Justice Abhay S. Oka, it has been held as follows:-

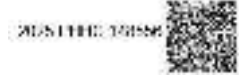
“ 19. Subject to what is held earlier, the main conclusions can be summarised as follows:

a. The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not mandatory. The word "may" used in the provision cannot be construed as "shall."

b. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.

c. The broad parameters for exercising the discretion under Section 143A are as follows:

- i. The Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application. The financial distress of the accused can also be a consideration.*
- ii. A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.*
- iii. If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.*



- iv. *If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.*
- v. *There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.”*

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in **Rakesh Ranjan Shrivastava (supra)**, the lower Appellate Court was required to consider whether the case of the petitioner is an exceptional case which warrants consideration before imposing the condition of deposit of 20% of cheque amount. The impugned order dated 05.06.2025 is hereby set aside. The learned trial Court is directed to re-examine the case after granting an opportunity to both the parties to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of deposit of interim compensation.

5. The matter is remanded back to the learned trial Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava (supra)**.

6. The petition is disposed of accordingly.

(RUPINDERJIT CHAHAL)
JUDGE

29.10.2025
Mohit Bishnoi

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |