



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL WRIT PETITION NO. 33 OF 2026**

1. Shri Ramesh Devrawji Ghode, Age 42 years,  
Occ. Business, Residing at plot No.2, Mitra  
Vihar, Kharbi Ring road, Nagpur - 440009.

**... PETITIONER**

**VERSUS**

1. Sadhana Yogesh Rais, Age 62 years, Occ.  
Retired, r/o Flat No.A22/5B, "Nirmal Nagari",  
Umred Road, Abhinandan School, Nagpur.
2. State of Maharashtra, through Police Station  
Officer, P.S. Nandanvan, Nagpur.

**... RESPONDENTS**

---

Shri Pradyuman Sharma, Advocate a/w Ms Vishakha Wadhwani  
and Shri Prateek Sharma, Advocate for the petitioner.  
Mrs. M.H. Deshmukh, APP for the State.  
Shri P.P. Kotwal, Advocate for respondent no.1.

---

**CORAM: M.M. NERLIKAR, J.**  
**DATE : 07.03.2026.**

**ORAL JUDGMENT :**

1. **RULE.** Rule made returnable forthwith.

2. Heard the learned Counsel appearing for the parties.

3. A short question involved in this matter is whether without recording the plea of guilt, the Court can pass the order under Section 143A of the Negotiable Instruments Act, 1881 (for short hereinafter referred to as 'the NI Act'). The petitioner challenges the order dated 04.03.2025 passed by the 10<sup>th</sup> Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Nagpur, whereby the application filed by the complainant under Section 143A of the NI Act came to be allowed and petitioner was directed to pay interim compensation equivalent to 10% of the amount of the disputed cheque, within a period of sixty days.

4. Learned Counsel for the petitioner submits that the Trial Court has failed to apply its mind to the facts of the present case. The order was passed in violation of Section 143A(1)(a) of the NI Act, so also without recording the plea of guilt. Further the Trial Court has not considered the necessary factors which are required before passing of the order and the order is without reason and therefore, according to him, the order is bad in law. Reliance is placed upon the judgment of the Supreme Court in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr.* 2024(4) SCC 419, specifically on paragraphs 10,

16 and 19 so as to submit that consideration as laid down by the Apex Court while passing the impugned order has not been considered.

5. On the other hand, learned APP and learned Counsel appearing for respondent no. 1 vehemently opposed the petition by submitting that the conduct of the petitioner is necessary to be seen as he was continuously absent in the proceedings. The very aim and object of Section 143A of the NI Act is to avoid undue delay in the finality of proceedings was frustrated as the petitioner was not appearing in the proceedings, therefore, no option was left with the Trial Court but to pass the impugned order to pay compensation under Section 143A of the NI Act. Learned Counsel invited my attention to the Roznama to demonstrate that the petitioner has remained absent on several occasions and he is not co-operating in the trial. It was also submitted that now the plea of guilt has been recorded wherein the accused has pleaded not guilty and therefore, even otherwise if again the respondent is compelled to make an application, then it would frustrate the very purpose of Section 143A of the NI Act as ultimately, the result would be the same and therefore, prayed to reject the petition.

6. I have considered the rival submission. It would be useful to refer to Section 143(A) of the NI Act which reads as under :

*“143A. Power to direct interim compensation.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant —*

*(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and*

*(b) in any other case, upon framing of charge.*

*...”*

7. The Hon’ble Supreme Court in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr. (supra)* particularly in paragraphs 10, 16 and 19 has observed as under :

*“10. The power under sub-section (1) of Section 143A is to direct the payment of interim compensation in a summary trial or a summons case upon the recording of the plea of the accused that he was not guilty and, in other cases, upon framing of charge. As the maximum punishment under Section 138 of the N.I. Act is of imprisonment up to 2 years, in view of clause (w) read with clause (x) of Section 2 of the Code of Criminal Procedure, 1973 (for short, ‘the Cr.PC’), the cases under Section 138 of the N.I. Act are triable as summons cases. However, sub-section (1) of Section 143 provides that notwithstanding anything contained in the Cr.PC, the learned Magistrate shall try the complaint by adopting a summary procedure under Sections 262 to 265 of the Cr.PC. However, when at the commencement of the trial or during the course of a summary trial, it appears to the Court that a sentence of imprisonment for a term exceeding one year may have to be passed or for any other reason it is undesirable to try the case summarily, the case shall be tried in the manner provided by the CrPC. Therefore, the complaint under Section 138*

*becomes a summons case in such a contingency. We may note here that under Section 259 of the Cr.PC, subject to what is provided in the said Section, the learned Magistrate has the discretion to convert a summons case into a warrant case. Only in a warrant case, there is a question of framing charge. Therefore, clause (b) of sub-section (1) of Section 143A will apply only when the case is being tried as a warrant case. In the case of a summary or summons trial, the power under sub-section (1) of Section 143A can be exercised after the plea of the accused is recorded.*

...

*16. When the court deals with an application under Section 143A of the N.I. Act, 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 under sub-section (1) of Section 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the*

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

...

*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.”*

8. Considering the above exposition of law and after perusal of the Section 143A of the NI Act, it is crystal clear that the power to direct payment of interim compensation is the discretionary power of the Court. However, in paragraph 10 of the judgment in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr. (supra)* it has also been observed that the powers under Section 143A of the NI Act can be exercised after the plea of accused is recorded. Admittedly, in the present case, the impugned order was passed on 04.03.2025 whereas the plea of guilt was recorded on 09.10.2025, wherein the petitioner pleaded not guilty. As contemplated under Section 143A of the NI Act and as the Supreme Court has interpreted the very Section in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr. (supra)*, it is crystal clear that the Court cannot pass order under Section 143A of the NI Act before recording the plea of the accused, therefore, considering the facts and circumstances of the case that without recording the plea of accused, the impugned order was passed and therefore, the order is not sustainable in the eyes of law.

9. Further, after going through the impugned order, admittedly, it reveals that there are no reasons given to substantiate the

order. The Hon'ble Supreme Court in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr. (supra)* has specifically in paragraph 16 observed that while exercising the discretion, the factors which are necessary to be kept in mind are (1) *prima facie* evaluation of the merits of the case made out by the complainant; (2) merits of the defence pleaded by the accused in the reply to the application under Section 143A(1). The Court will have to apply its mind if it comes to the conclusion to grant interim compensation as to what quantum of interim compensation ought to be granted; further the court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, and the paying capacity of the accused.

10. After going through the impugned order it reveals that the impugned order lacks the reasons as well as there is non-application of mind. Further the factors which are necessary to be considered while exercising the discretion have not at all been considered.

11. It is to be borne in mind that when the discretion is conferred on the Court by the statute, reasons are necessarily to be spelt out, which is indicative of application of mind to the facts and circumstances of the case. This Court in *Criminal Writ Petition No.48 of*

***2022 (Ashwin Ashokrao Karokar vs. Laxmiant Govind Joshi) dated***

***07.07.2022***, in paragraph 11 has stated as under :

*“11.... This is more so for the reason that reasons are the heart of an order/judgment and unless reasons are spelt out in the order/judgment, neither the litigant nor the Court before whome a challenge is laid to be exercise of such discretion, would be able to fathom what weighed with the Court passing the order/judgment to hold one way or another, and thus make the exercise of discretion, to be struck down for non-application of mind and thus any order exercising or refusing to exercise discretion to award interim compensation will have to spell out the reasons for exercise of such exercise.”*

12. Therefore, even this Court has in unequivocal terms has held that reasons are the heart of an order/judgment. Considering the above exposition of law laid down by the Hon’ble Supreme Court as well as this Court, I am of the considered opinion that the impugned order is without reasons, without application of mind so also non consideration of law laid down by the Hon’ble Supreme Court in the case of *Rakesh Ranjan Shrivastava vs. State of Jharkhand and anr. (supra)* and therefore, does not sustain in law. Hence, the following order :

(a) The Criminal Writ Petition is allowed.

(b) Order dated 04.03.2025 passed by the 10<sup>th</sup> Civil Judge,

Senior Division and Additional Chief Judicial Magistrate,  
Nagpur is hereby quash and set aside.

13. The Petition stands disposed of accordingly. Rule is made  
absolute in above terms.

**(M.M. NERLIKAR, J.)**

*Trupti*