IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54140-2025

Dayal Dogra

...Petitioner

Versus

Manish Arora

...Respondent

1.	**Date when Order was reserved**	**23.12.2025**
2.	**Date of Pronouncement of Order**	**30.01.2026**
3.	**Date of uploading Order**	**30.01.2026**
4.	**Whether operative part or full Order is pronounced**	**FULL**
5.	**Delay, if any, in pronouncing of full order, and reasons thereof**	**NOT APPLICABLE**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. H.S. Randhawa, Advocate,
Amicus Curiae.

None for the petitioner.

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SANJAY VASHISTH, J.

1. Petitioner – Dayal Dogra has filed the instant petition, under Section 528 of BNSS, 2023, for quashing/setting aside impugned order dated 01.08.2025 (Annexure P-4), passed by the Court of learned Sub Divisional Judicial Magistrate, Rajpura, District Patiala, in Criminal Complaint No. COMA-557-2022 (Annexure P-1), titled as "Manish Arora v. Dayal Dogra", allowing the application under Section 143-A of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'), filed by the respondent/complainant, and directing the petitioner to pay interim

compensation to the tune of 10% of the cheque amount to the complainant within 60 days from the date of order.

2. Brief facts of the present case are that the respondent/complainant filed a complaint, under Section 138 of the NI Act, by asserting that he was having cordial relation with the petitioner/accused and extended a friendly loan of Rs. 10,00,000/- to him. The petitioner/accused assured the complainant to return the amount after two months. The petitioner/accused, to discharge his legal and enforceable liability, issued two cheques, bearing numbers 349339, dated 23.06.2022, and 349340, dated 07.07.2022, amounting to Rs. 5,00,000/- each (total Rs. 10,00,000/-), of Punjab National Bank, Sector 26-B, Chandigarh. When the said cheques were presented to the bank, the same were returned on 27.06.2022 and 11.07.2022 respectively, with endorsement **"Drawee Bank and Branch"**. On the assurance given by the petitioner, the said cheque was again presented to the bank. This time also, both the cheques were again dishonoured on 11.08.2022, for the same reason i.e. **"Drawee Bank and Branch"**.

After filing of the complaint dated 10.10.2022 (Annexure P-1), Trial Court took cognizance and ordered summoning of the petitioner/accused to face trial for an offence punishable under Section 138 of the NI Act. Thereafter, an application, dated 19.07.2024 (Annexure P-2), under Section 143-A of the NI Act, was filed by the respondent/complainant seeking interim compensation.

Reply, dated 11.11.2024 (Annexure P-3), to the said application was filed by the petitioner, by taking the following stand:-

"PRELIMINARY OBJECTIONS

1. *That present application of applicant/complainant is not maintainable in the present form at this stage as evidence of complainant is yet to come and till today applicant/complainant has failed to adduce any evidence in support of version of his complainant set up in his complaint. As such application of the complainant is liable to be dismissed on this score only. Moreover provisions of 143-A of Negotiable Instrument Act is not mandatory as per law.*

ON MERITS

1) *That Para no. 1 of the application is correct regarding the pendency of the complaint. It is mentioned here that till today complainant has failed to adduce any evidence in support of his claim set up by him in the present complaint and complainant has filed the present application in order to harass the accused. No affidavit of evidence of produced by applicant in the said case.*

2) *That Para no. 2 of the application is specifically denied. Complaint of the complainant is based on false and frivolous facts and complainant set up concocted story in para no. 2 of his application. Rest of contents of this para are specifically denied.*

3) *That Para no. 3 of the application is matter of record. Applicant till today has not lead any evidence in support of his claim set up by him in the present complaint. Application of the applicant/complainant is based on wrong facts.*

4) *That Para no. 4 of the application is correct that accused appeared in the present case and he released on bail. Rest of contents of this para are denied. Moreover section 143-A of Negotiable Instrument Act is not mandatory. As such application of the complainant is liable to be dismissed. Photo stat copy of citation 2022(2) Page 332-Criminal Court Cases is enclosed herewith.*

It is therefore prayed that application of the applicant/complainant U/S 143-A of Negotiable Instrument Act may kindly be ordered to be dismissed with costs."

Thereupon, after hearing counsel for the parties and noticing the factual matrix of the complaint, learned Trial Court allowed the said application, vide impugned order dated 01.08.2025 (Annexure P-4), and directed the petitioner/accused to pay 10% of the cheque amount within 60 days from the date of order, as interim compensation to the complainant.

For ready reference, order dated 01.08.2025 is reproduced as under:-

> *" This order of mine shall dispose of an application for interim compensation under section 143-A of Negotiable Instruments Act, moved by complainant (hereinafter called as applicant) for directing the accused to pay the interim compensation of the cheque amount.*
>
> *2. A detail reply to the application was filed by the accused (hereinafter called as respondent) denying the averments of the applicant and prayed for its dismissal.*
>
> *3. After hearing the detailed arguments of the Ld. counsel for the applicant and respondent and perusal of documents/record on file, I am of the considered opinion that by moving the present application, the applicant seeks the relief of interim compensation under Section 143-A of Negotiable Instruments Act, upto 20% of the cheque amount as interim compensation from the respondent till the disposal of the present case. It is the case of the applicant that the accused was having cordial relation with him and accused requested to pay amount of Rs.10 Lakhs. Accused also assured to return the said amount after two months. Applicant believing upon the accused gave amount of Rs.10 Lakhs to accused as friendly loan on 05.05.2020. Thereafter, in discharge of his legal liability accused issued two cheques bearing No.349339 of Rs.5 Lakh dated 23.06.2022 and cheque No.343940 of Rs.5 Lakhs dated 07.07.2022 of Punjab National Bank, Sector 26B, Chandigarh in favour of applicant but the same were dishonored vide memos dated 27.06.2022 and memo dated 11.07.2022 bears the remarks "Drawee Bank and Branch". The fact of such dishonour of the cheque had been communicated to the respondent/accused by legal notice dated 24.08.2022. However, respondent/accused neither paid legal debt nor*

replied the said legal notice, therefore applicant/complainant has filed the present complaint. Further stated that in the present complaint notice of accusation has been served upon the respondent and he has pleaded not guilty and claimed trial, but has not deposited interim compensation at the rate of 20% cheques in question. Hence, directions be issued to respondent to deposit the amount of interim compensation at the rate of 20% of the cheques in question.

4. On the other hand, denying the averments of the learned counsel for the applicant, it has been asserted by the learned counsel for the respondent/accused that the present application is devoid of any merit and is liable to be dismissed. Learned counsel for respondent further stated that the present application is not maintainable in the present form as evidence of complainant is yet to come and till date complainant has failed to adduce any evidence in support of his complaint. As such the application is liable to be dismissed on this score only. It is further alleged that the provisions of Section 143-A Negotiable Instruments Act is not mandatory as per law. It is further alleged that present application has been filed only to harass the respondent and the complainant has concocted a false story. Respondent/accused denied all the averments mentioned in the application. As such, the present application is liable to be dismissed.

5. After giving thoughtful consideration to the averments of the learned counsel of the applicant and respondent and perusal of the document on record, this court is of the considered opinion that the provision of Section 143-A of NI Act provides a discretionary power to the court to compensate the complainant during the pendency of the complaint under Section 138 of NI Act up to 20% of the cheque in question. The discretionary powers has been granted to the Court for the adjudication of the entitlement of the complainant for interim compensation under Section 143-A of NI Act. In the present case the notice of accusation has been served upon the accused under Section 251 Cr.P.C to which the accused/respondent has not pleaded guilty and has claimed trial. However, in his reply to application under Section 143-A of NI Act, he has pleaded his defence against the case of the applicant that the present application is not maintainable in the present form as evidence of complainant is yet to come and till date complainant has failed to adduce any evidence in support of his complaint, as such the application is liable to be dismissed on this score only. The point for consideration is *that the respondent has not denied his signatures on the cheque in question. As far as the defence of the respondent is concerned. Such fact is required to be proved on the record by the respondent during trial by leading cogent and convincing evidence on record. At this stage, this court is only to consider the entitlement of the applicant for interim compensation in lieu of the cheques in question.*

*6. Moreover, the spirit of Section 143-A NI Act is not an unlawful enrichment of the complainant at the stake of the accused. The provision of providing interim compensation at the rate of 20% of the cheque amount is only for during the pendency of the trial. In case of acquittal of the accused that amount is recoverable with interest under Sub-Section (4) 143-A of Negotiable Instruments Act. Hence, in view of the above said detailed discussion, without commenting upon the merits of the case, the present application under Section 143-A Negotiable Instruments Act stands allowed. Since a huge amount is involved in the cheques and the applicant is still required to prove the payment of such a huge amount to the respondent. Hence, the accused is hereby directed to pay 10% of the cheques amount to the complainant **within 60 days from the date of order as per law**."*

3. On 24.09.2025, learned counsel for the petitioner appeared before the Co-ordinate Bench of this Court and relied upon the judgements of the Hon'ble Apex Court in the cases of **'Rakesh Ranjan Shrivastava versus The State of Jharkhand and another (Criminal Appeal No. 741 of 2024, decided on 15.03.2024)'** and **Jamboo Bhandari versus State Industrial Development Corporation Ltd. and others (Criminal Appeal No. 2741 of 2023 @ SLP (Crl.) No. 4927 of 2023)'.**

Despite service, no one has ever put in appearance on behalf of the respondent/complainant.

4. When this petition alongwith other 17 petitions, came up for consideration on 17.11.2025, the Co-ordinate Bench of this Court

appointed Mr. H.S. Randhawa, Advocate (Enrl. No. P/1444/2011) as as *Amicus Curiae,* to assist the Court.

5. During course of hearing on 23.12.2025, Mr. H.S. Randhawa, learned *Amicus Curiae* pointed out before this Court that the issue involved in the present petition is in regard to grant of interim compensation under Section 143-A of the NI Act, i.e. during pendency of the complaint, whereas in majority of other petitions the question of deposit of 20% of the awarded amount of compensation, under Section 148 of the NI Act during pendency of appeal, was involved. Learned *Amicus* also submitted that the judgement of the Hon'ble Apex Court in the case of **Jamboo Bhandari (supra)**, thus, is not attracted in the facts of the present petition.

6. Assisting the Court, learned *Amicus* also submitted that the learned Trial Court has passed the impugned order dated 01.08.2025, in a mechanical manner, without application of judicious mind; that Section 143-A of the NI Act is discretionary and not mandatory, as the word "may" cannot be read as "shall.", and the learned Court below failed to appreciate the facts in the right perspective and imposed the condition to deposit 10% 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 the case of **Rakesh Ranjan Shrivastava v. State of Jharkhand and another, Law Finder Doc Id # 2521128 : (2024) 4 SCC 419**, because while exercising such power specific reasons are required to be recorded, which are lacking in the impugned order.

Learned *Amicus,* thus, submitted that the matter can be remanded back to the learned Trial Court for decision afresh in the light of the mandate of law laid down by the Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava (supra)**.

7. I have heard learned *Amicus Curiae* and also gone through the material available on record.

8. In the case of **Rakesh Ranjan Shrivastava (supra)**, the primary issue which came up for consideration before the Hon'ble Apex Court was that whether the provision of sub-section (1) of Section 143A of the NI Act, which provides for the grant of interim compensation, is 'directory' or 'mandatory', and if it is held to be a 'directory provision', what are factors to be considered while exercising under sub-section (1) of Section 143A of the NI Act.

9. After noticing factual matrix of the said case; provisions of Section 143A of the NI Act; and rival contentions of the parties, in para No. 19(a) of the judgment, it has been held by the Hon'ble Apex Court that '*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"*.

10. As regards the factors to be considered while exercising 'discretion', in para No. 16 of the judgment in **Rakesh Ranjan Shrivastava's case (supra)**, it has been observed as under:-

> *"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."*

11. Further, in para No. 19(b) it has been held that *"while deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors."*

12. Finally, in para No. 19(c) of the judgment, the Hon'ble Apex Court laid down the broad parameters for exercising the discretion under Section 143A, which are reproduced as under:-

> *"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."*

13. From reading of the impugned order, in light of the law laid down by the Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava (supra)**, this Court finds that there is ambiguity in the concluding para of the impugned order dated 01.08.2025, because learned Trial Court has noticed that it is for the complainant (respondent herein) to prove as to how he was able to arrange such a huge amount and made payment to the accused/petitioner, still directed the accused/petitioner to pay 10% of the cheques amount to the complainant within 60 days from the date of order. This also shows that the learned Trial Court itself was not definite or having any tentative belief by recording its opinion in regard to the genuineness of the cheques in question. Therefore, it appears that without acknowledging the import of the judgment of Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava (supra)**, learned Trial Court has issued impugned direction to the accused/petitioner, i.e. to pay 10% of the cheques amount to the complainant within 60 days.

14. As a result of above discussion, impugned order dated 01.08.2025 (Annexure P-4), passed by learned Sub Divisional Judicial Magistrate, Rajpura, District Patiala, in Criminal Complaint No. COMA-557-2022, is set aside. Learned Trial Court is directed to re-decide the application under Section 143-A of the NI Act afresh, after following the mandate of law laid down by the Hon'ble Apex Court in the case of **Rakesh Ranjan Shrivastava (supra)**.

Registry is directed to transmit a copy of this order to the learned Trial Court forthwith, for compliance.

15. This petition stands **disposed of** in the above terms.

(SANJAY VASHISTH)
JUDGE

January 30, 2026
Pkapoor

Whether Speaking/Reasoned: **YES/~~NO~~**
Whether Reportable: **YES/~~NO~~**