

Order dated : 17.07.2026

Today is fixed for order with respect to petition u/s.143A NI Act.

Both the parties files hazira.

Heard both sides.

The record is taken up for passing order.

By filling the instant petition Ld advocate for the complainant/ petitioner submits that the instant case was filled on 27.08.2021 before the Ld ACJM Barrackpore and thereafter the same was transferred to this Court. The accused has surrendered and pleaded non guilty and hence the Complainant/ petitioner has prayed for interim Compensation of 20% to the tune of the cheque amount of Rs.11,07,729/- in favour of the Complainant.

Ld. Advocate for the complainant has filed several documents including the copy of the MOU, bank statement and the reply sent by the accused dated 21.08.2021.

Ld advocate for the accused filed written objection and prayed for rejection of the petition. It is submitted that the accused person after receiving the notice dated 26.07.2021 paid an amount of Rs.6,00,000/- through online transfer prior to the disbursing of the loan on 28.05.2021 as security for the loan through the authorized representative namely Kamal Upadhyay of M/s Krishnau Infrastructure Pvt. Ltd. As such, the amount of Rs.5,07,729/- is only due. The accused has filed the copy of the mail dated 28.05.2021 as to the payment of Rs.6,00,000/-, statement of ICICI Bank and the letter dated 21.08.2021 sent by the Ld. Advocate for the accused as to the payment made by the accused of an amount of Rs.6,00,000/- .

Heard and considered.

Section 143A of N.I. Act provides that

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence u/s.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 complainant ; and

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

(2) The interim compensation under sub-section (1) shall not exceed twenty percent of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub sec(1) or within such further period not exceeding thirty days as may be directed by the court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.

This amendment of NI Act came into force with effect from 1.9.18, the purport of the amendment is that the court may in certain circumstances, award interim compensation which shall not exceed 20% of the amount of the cheque. And such interim compensation can be permitted to be withdrawn in terms of the said amendment in the event of court directs deposit of the amount as interim compensation in terms of section 143A, it is recoverable by initiating proceedings under section 421 of the CrPC. One of the purpose of the amendment is because of delay tactics of the unscrupulous drawers of dishonour cheque. The injustice cost the payee of a dishonored cheque had to be considered. Thus, while exercising the discretionary power in dealing with an application u/s.143 A of the NI Act the conduct of the accused has to be considered.

In the instant case was filled on 27.08.2021. Thereafter process was issued against the accused person on 15.09.2021. The warrant was issued against the accused for non appearance and

thereafter the accused surrendered before this court on 17.08.2022 and prayed for bail. Thereafter another warrant was issued against the accused. The accused was finally examined u/s 251 on 09.02.2024 after several adjournments. The accused was again without any step as such warrant was issued and on 31.08.2024 he surrendered before this court. The accused again prayed for adjournment on 11.09.2024 and the same was allowed with cost. On 12.11.2024 another warrant was issued against him and after several attempts the accused surrendered before this court on 20.03.2026. Thus, the accused has played several delatary tactics in delaying the matter which force the court to grant interim compensation. Furthermore, the admitted that he had take an amount of Rs.11,07,729/- from the complainant and he has paid an amount of Rs.6,00,000/- and the same is a matter of trial. As the case is very early stage of trial and the accused has delayed on several occasion after examination u/s.251 and keeping in mind the objectives of introducing the section I am of the view that interim compensation of 10% should be awarded in favour of the complainant.

Hence it is

ORDERED

that the petition under hearing is allowed on contest.

The accused are hereby directed to deposit Rs.1,10,772/- i.e. 10% of the cheque amount of Rs.11,07,729/- before the court within 60 days from the date of this order failing of which the same shall be recovered as per sec.421 of CrPC.

It is further ordered that if after completion of trial the accused persons are acquitted then the complainant / petitioner shall be bound to repay the aforesaid amount with interest at the bank rate as published by Reserve Bank of India, prevalent at the beginning of the relevant financial year withing sixty days from the date of order of acquittal.

Thus the petition is hereby disposed off.

To 23.12.2026 for evidence.

Typed & Printed by me,

**(Pratigya Pradhan)
J.M, 3rd Court, Barrackpore**

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