



2026:AHC:129551

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 24306 of 2026

Ajay Babu Seth

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Shyam Shankar Mishra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Shyam Shankar Mishra, learned counsel for the applicant as well as learned AGA for the state.

2. This application u/s 528 BNSS filed for quashing of the entire proceedings of complaint case no. 86 of 2024 (Shyamlal Agrahari Vs. Ajay Babu Seth) along with cognizance and summoning order dated 11.03.2026 under Section 138 of the NI Act pending before the learned trial court i.e. Additional Civil Judge (J.D.)-III, Jaunpur.

3. Learning counsel for the applicant has submitted that a complaint under Section 138 of the NI Act came to be instituted by the opposite party No. 2 on 04.11.2024 against the applicant and one another with an allegation that the applicant had drawn a check bearing no. 026147 dated 27.09.2023 of Rs. 11,00,000/- in favour of the opposite party no. 2 which on presentation in the bank came to be dishonored on 11.10.2023. Learned counsel for the applicant has submitted that the entire bag containing the cheque leaflets stood misplaced information whereof was given to the Branch Manager, Bank of Baroda, Branch Shahganj on 17.10.2023 and also to the police also that finds place in the G.D. entry also. Submission is to the extend that proceedings under section 156(3) of the CrPC was also instituted on 30.10.2023 against the opposite party no. 2 for the offences under sections 420, 467, 468, 471, 504, 506 IPC being FIR No. 0059 of 2025. Contention is that even though the proceedings under section 156(3) was filed on 30.10.2023 and the FIR was lodged on

21.02.2025, however, in between, a frivolous complaint came to be lodged on 04.11.2023 regarding dishonor of the check with respect to discharge of the liability. Submission is to the extent also that a cooked up story has been built up that a special power of attorney got instituted and the opposite party no. 2 is fully authorized to look after the house and recovery of rent along with the management of the house and then the applicant herein along with these partner who had been made accused in the complaint Ram Prakash Yadav were running business/office and partnership on a monthly rental of Rs. 30,000/- and Rs. 11,00,000/- worth due and in lieu thereof, the cheques stood drawn which were dishonored. Contention is that the applicant at no point of time had ever run the business as a partnership firm with Ram Prakash Yadav as in fact Ram Prakash Yadav is running the business of real estate while registering a company in the name on style of Good Feel Infra Private Limited in which the name of the applicant does not find place. Learned counsel for the applicant submits that even otherwise proceedings were also drawn before the Nagar Palika Parishad for making interpolations in the entry/assessment by the opposite party no. 2 which turned against it. Contention is that the applicant has been falsely implicated. The cheques stood lost/misplaced. Proceedings under section 156(3) Cr.P.C. came to be lodged on 30.10.2023 though the FIR was lodged in the year 2025 but prior to it, complaint was already there. Thus, in order to wriggle out from the same, a concocted story has been built up just in order to falsely implicate the applicant and there is no subsisting liability to be discharged by way of the cheque which was dishonored.

4. Learned AGA, on the other hand, submits that once the cheque stood drawn then presumption under Section 139 of the NI Act would be there.

5. I have heard the submission so made across the bar and perused the record.

6. The sole question which arises for determination is the extent of judicial intervention at this stage. Apparently a cheque is alleged to have been drawn by the applicant which has been dishonored. The question whether the cheque stood misplaced and a proceedings under Section 156(3) Cr.P.C. came to be lodged on 30.10.2023, FIR in the year 2025

and in between complaint was lodged, these are the matter of defenses, consideration whereof would be necessitated only when the trial commences. It would not be appropriate for this court to delve into the said issue at this stage while prejudging and presupposing a fact which is yet to be determined and crystallized. Apart from the same, the theory regarding the discharge of the liability is a question which is mixed question of fact and law, consideration whereof would be required only when the trial commences as this Court at the stage of summoning is required to see whether there happens to be a cheque drawn, service of legal notice, non payment of the amount in question, post dishonor of the cheque that is relatable to the ingredients under Section 138 and Section 142 of the NI Act. Nonetheless, it is always open for the applicant to raise all legal and factual issues including the defense when the trial commences as the stage is not arisen till yet.

7. At this stage, learned counsel for the applicant submits that the applicant shall be applying for enlargement on bail and then the same is considered, protection be accorded.

8. Considering the overall fact situation, the application stands **disposed of** directing the applicant to apply for bail by **17.07.2026** which shall be considered by **31.07.2026**.

9. Till 31.07.2026 or the disposal of the bail application, no coercive action shall be taken against the applicant.

10. The protection accorded to the applicant is only available subject to compliance of the terms and conditions and timeline as provided herein and in case of default, the order shall stand vacated without reference to the Bench.

(Vikas Budhwar,J.)

June 29, 2026

Rajesh