



**IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR**

**Anticipatory Bail Application No.: 635/2026**

**CNR No.: UPAN010044982026**

**In the Matter of:**

1. **Sribhagwat Shukla**, Aged about 70 years, Son of Rajkumar Shukla.
2. **Shashi Bhagwat Shukla**, Aged about 37 years, Son of Sribhagwat Shukla.

Both Residents of Village Alampur Shekhpur, Police Station Kotwali Tanda, District Ambedkar Nagar.

*... Applicants / Accused*

**Versus**

**State of Uttar Pradesh**

*... Prosecution / Opposite Party*

**Order Date:** June 11, 2026

**Case Crime No.:** 131/2018

**Under Sections:** Sections 419, 420, 406, 504, and 506 of the Indian Penal Code, 1860 (IPC) and Section 138 of the Negotiable Instruments Act, 1881 (NI Act).

**Police Station:** Tanda, District Ambedkar Nagar

This is the first anticipatory bail application moved on behalf of the applicants/accused, Sribhagwat Shukla and Shashi Bhagwat Shukla, under **Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023** (BNSS) [corresponding to Section 438 of the Code of Criminal Procedure, 1973], seeking pre-arrest protection in connection with Case Crime No. 131/2018. The application is supported by an affidavit executed by the applicant, Sribhagwat Shukla.

**Points for Determination**

The following key legal points arise for determination in this application:

1. Whether criminal prosecution under Section 420 IPC can be legally maintained on a police report alongside an infraction under

Section 138 of the Negotiable Instruments Act, 1881, if a *prima facie* dishonest intention to deceive exists from the inception of the transaction.

2. Whether a legitimate "apprehension of arrest" exists to satisfy the statutory requirements of Section 482 BNSS when the investigating agency has already filed a charge sheet and the trial court has merely issued a bailable warrant to secure attendance.

## Findings

### 1. Factual Matrix of the Case

The criminal proceedings originated from an application under Section 156(3) CrPC filed by the informant, Ankit Srivastava, before the learned Chief Judicial Magistrate (CJM), Ambedkar Nagar, which led to the registration of the formal FIR at Police Station Tanda.

The key allegations are outlined below:

1. **The Real Estate Agreement:** On December 02, 2016, at around 6:00 PM, co-accused Shashi Bhagwat Shukla alias Pintu Shukla, accompanied by his father Sribhagwat Shukla, visited the informant's office and offered to sell their house located at Alampur Shekhpur for a total consideration of ₹20 Lakhs.
2. **The Payments:** Trusting their representations, the informant and his associate, Vijay Bahadur Yadav, advanced a total sum of ₹10,30,000/- across multiple instalments between December 02, 2016, and March 01, 2017. This amount comprised cash payments and banking transfers from the accounts of the informant, his wife, and Vijay Bahadur Yadav. A written agreement was executed via a notary at Tanda Court on March 03, 2017.
3. **The Guarantee Cheques:** As security, the applicants issued signed post-dated cheques: Sribhagwat Shukla issued Cheque No. 132291 (SBI Saddarpur) for ₹5,25,000/- to the informant, and Shashi Bhagwat Shukla issued Cheque No. 000027 for ₹5,05,000/- to Vijay Bahadur Yadav. They promised that if the property's sale deed was not registered by January 10, 2018, the cheques could be presented for encashment.
4. **The Deception:** Following the applicants' failure to execute the registry, the informant presented the instruments. On March 12, 2018, the informant's cheque was returned dishonoured with the endorsement "**Payment stopped by drawer,**" while Vijay Bahadur's cheque was returned due to a "**Signature mismatch,**"

revealing that the applicants had intentionally used false signatures to compromise the instruments.

5. **Threats:** When the informant confronted the applicants at his residence on April 15, 2018, to demand either the registry or a refund, the applicants jointly abused him and threatened his life.

Following a comprehensive police investigation, the Investigating Officer concluded that a case was made out and has already submitted a formal **charge sheet** against both applicants before the trial court.

## **2. Submissions on Behalf of the Parties**

The learned counsel for the applicants argued that they are innocent and have been falsely implicated based on fabricated facts. He contended that it was actually the informant who had borrowed money from the applicants for personal needs. When the applicants demanded their money back, the informant allegedly colluded with the police to file this false case and push through a baseless charge sheet. He highlighted that the applicants have no prior criminal history and should be protected from arrest.

The learned District Government Counsel (Criminal) strongly opposed the anticipatory bail plea. He presented the case diary and the filed charge sheet, arguing that the applicants intentionally issued defective security instruments with mismatched signatures and stop-payment orders to siphon off ₹10,30,000/-, making it a classic case of criminal cheating and breach of trust.

## **3. Judicial Analysis and Legal Rationale**

### **A. Interplay Between Section 138 NI Act and Section 420 IPC**

The defence argued that since the case involves dishonoured cheques, it falls under the Negotiable Instruments Act, which mandates a private complaint under Section 142 and bars regular police investigations. This Court notes that the legal elements of both offences are distinct.

It is a well-settled principle of law that while a prosecution under Section 138 of the NI Act must strictly follow the private complaint procedure, an independent criminal prosecution under Section 420 IPC is perfectly maintainable through a police report if the initial intention of the accused was fraudulent and designed to induce the delivery of property. As affirmed by the Hon'ble Supreme Court in *Sangeetaben Mahendrabhai Patel v. State of Gujarat (2012 (7) SCC 621)* and *G. Sagar Suri v. State of U.P. (AIR 2000 SUPREME COURT 754)*, there is no legal bar against simultaneous proceedings under both the NI Act and the IPC, provided the ingredients of cheating and forgery are clearly

established. The deliberate use of a mismatched signature and a subsequent stop-payment instruction *prima facie* points to a deceptive intent from the inception of the transaction. Police cannot send a charge-sheet for Section 138 of the NI Act.

The arguments of learned counsel for applicants are misplaced as the record of the trial court reveals that learned CJM dropped Section 138 of the NI Act and took cognisance of the case for Sections 419, 420, 406, 504, 506. However, Sections 420 and 406 are exclusive and cannot be pressed together, as held by the Hon'ble Apex Court in *Delhi Race Club (1940) Ltd vs The State of Uttar Pradesh on 23 August, 2024 (2024 INSC 626)*; but this is not an issue of anticipatory bail.

### **B. Absence of "Apprehension of Arrest"**

The primary ground for evaluating an anticipatory bail application under Section 482 BNSS is whether the applicants face a real, imminent threat of being arrested by the police.

In the present case, the investigating agency has concluded its probe and submitted the charge sheet before the trial court. Upon taking cognisance, the trial court has **only issued aailable Warrant** against the applicants to secure their presence.

The issuance of aailable warrant explicitly demonstrates that the trial court is not seeking the immediate custodial detention of the accused. Therefore, the foundational requirement for anticipatory bail—the objective apprehension of an imminent arrest—is completely absent. The proper course of action for the applicants is to appear before the trial court and move an application for regular bail, or challenge the cognisance order through a criminal revision application if they dispute the merits. Anticipatory bail cannot be used to bypass standard trial court appearances when no non-ailable coercive measures have been deployed.

Without expressing any opinion on the final merits of the case, this Court finds that the applicants have failed to establish sufficient grounds to maintain this pre-arrest bail plea.

### **Order**

The first anticipatory bail application moved on behalf of the applicants/accused, **Sribhagwat Shukla** and **Shashi Bhagwat Shukla**, in connection with Case Crime No. 131/2018, under Sections 419, 420, 406, 504, 506 IPC and Section 138 of the NI Act, Police Station Tanda, District Ambedkar Nagar, is hereby **Rejected**.

The applicants are at liberty to surrender before the trial court concerned and apply for regular bail, which shall be considered on its own merits in accordance with the law. The copy of the order be sent to the trial court for information.

**( Chandroday Kumar )**

Sessions Judge, Ambedkar Nagar

*J.O. Code No.: UP06553*

**Date:** June 11, 2026

**Place:** Ambedkar Nagar