

Chander Mani Vs State Of Himachal Pradesh

Court: High Court Of Himachal Pradesh

Date of Decision: Jan. 9, 2025

Acts Referred: Bharatiya Nagarik Suraksha Sanhita, 2023 â€” Section 483

Indian Penal Code, 1860 â€” Section 286, 379, 511

Explosive Substances Act, 1908 â€” Section 3

Indian Forest Act, 1927 â€” Section 32, 33

Mines & Minerals (Development and Regulation) Act, 1957â€” Section 21

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Yashveer Singh Rathore, H.S. Rawat, Mohinder Zharaick, Ranjana Patial

Final Decision: Allowed

Judgement

Virender Singh, J

1. This order of mine shall dispose of the abovetitled bail applications, which have been filed by the applicants, under Section 483 of the Code of

Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the *BNSS*), for releasing them, on bail, during the pendency of trial, in

case FIR No.13 of 2024, dated 12.01.2024 (hereinafter referred to as the *FIR*, in question), registered with Police Station Bhuntar, District

Kullu, H.P., under Section 3 of the Explosive Substances Act, 1908 (hereinafter referred to as the *Act* of 1908), Sections 32 & 33 of the

Indian Forest Act, 1927 (hereinafter referred to as the *Act* of 1927), Section 21 of the Mines & Minerals (Development and Regulation) Act,

1957 (hereinafter referred to as the *Act* of 1957) and Sections 379 and 286 of Indian Penal Code (hereinafter referred to as the *IPC*).

2. The relief of bail has been sought on the ground that the applicants, in this case, have been arrested on 11.11.2024 and from that day, they are in

judicial custody. The story of the police is stated to be imaginary and baseless, as, there is no link of the applicants in the commission of the alleged

crime.

3. According to the applicants, they had earlier tried their luck by moving similar applications, before the Court of learned Special Judge, Kullu, District

Kullu, H.P. However, the same were dismissed, vide order dated 28.11.2024.

4. Apart from this, Mr. Yashveer Rathore, Advocate, appearing for the applicants, has given certain undertakings, on behalf of the applicants, for

which, the applicants are ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

5. In addition to this, the applicants have also sought their release on bail, on the ground of parity, as their co-accused, namely Partap Singh and Kiran

Prakash, have already been released on bail, by this Court, vide order dated 02.01.2025, passed in CrMPs(M) No.2911 and 2912 of 2024.

6. On the basis of the above facts, a prayer has been made to allow the application.

7. When, put to notice, the police has filed the status report, disclosing therein, that on 12.01.2024, Mr. Neeraj Sharma, Deputy Ranger Thela,

Forest Range Hurla, came to the police station and moved the complaint, mentioning therein that on 10.01.2024, he received an information that at a

place, known as Gomukh, some anti social elements have conducted the blasts in the hill, in order to take out crystal stones and the crystal stones are

being excavated, upon which, the complainant has taken action and constituted a range level team.

8. As per further version of the complainant, on 11.01.2024, along with the said team, the complainant started going towards the spot, known as

Gomukh, and they reached there, at about 10:00 am. At the spot, they noticed that 20-25 small and big holes were made in the hills. The place, where

the said holes were made, is very difficult to reach. Number of ropes were found there, with the help of which, those anti social elements used to

climb over the hills for excavating the crystal stones. Due to the blast and excavating the hills, it not only causing damage to the environment, but, also

damage is being caused to the flora and fauna of the area.

9. According to the said complaint, from the spot, 15 tents were found to be unauthorizedly set up at Thonarang and about 60 people were found, most

of whom were local residents of Gadsa Valley and some were of Nepali origin. Some of the persons were nabbed, while working on the spot and

other persons ran away taking advantage of the height of the hill. There is a tunnel on the Gomukh hill, through which, common people can go and in

the said tunnel, 13 sacks of crystal stones were found. The weight of per sack was 50-70 kg. Complainant has also mentioned the following list of

persons, who were found there:-

1. Chandramani son of Shri Gupt Ram village and post office thella, mobile no. 89883-00420,

2. Vishal Negi son of Shri Satish Kumar village Jeshtha post office thella, mobile number 85809- 54185,

3. Sanjay Kumar son of Shri Moti Ram village Jhuni post office thella, mobile number 86280-71151,

4. Dinesh Bhandari, son of Shri Roop Chand Village and Post Office Thela, mobile number 82198-56891,

5. Gopal son of Shri Ses Ram Village and Post Office Thela, mobile number 98058- 08290,

6. Sunil son of Bailey Ram Village Jhuni Post Office Thela, mobile number 76508-01523,
7. Devinder Singh Son Shri Dhale Ram Village Neenu Post Office Thella, Mobile No. 62308-57458. 82197-98238,
8. Kiran Prakash S/o Shri Karm Chand Village Jestha Post Office Thella, Mobile No. 98164- 66597,
9. Narendra Singh S/o Shri Revati Ram Village Sis Post Office Thella, Mobile No. 70181- 36304,
10. Kushal S/o Shri Lal Bahadur Vansit Village Jajarkot, Nepal Mobile No. 82197-98238,
11. Pratap Singh son of Shri Ram Saran village Khen Post Office Banjar Tehsil Sainj, mobile number 88949-01223,
12. Bhup Singh son of Shri Chamaru Ram village Thella Baga Post Office Thela Mobile Number 89882- 90800,
13. Jeevan Lal son of Shri Purna Chand village Thella Baga Post Office Thella, Mobile Number 89882-90800,
14. Hemraj son of Shri Shavagi Ram Post Office Thella, Mobile Number 90151-15893,
15. Ramesh Kumar son of Shri Revati Ram Gov Rogna Post Office Thella, Mobile Number 88940- 52669,
16. Hari Bahadur Vansit son of Shri Nand Bahadur Vansit village Jajarkot Nepal Mobile Number 94596- 18369

10. It is the further case of the police that when, the above persons were being brought, then, by taking the advantage of darkness, they had fled away

from there. Complainant has also given the following list of the articles, including the crystal stones, which they had brought from the spot:-

1. Crystal 71 kg, which was weighed and brought from the spot, which was in 3 bags and a box.

2. Drilling Rod=8,
3. Vacuum Machine=2,
4. Steel Small trunk=01,
5. Dynamite (blasting wick)=28,
6. Detonator (cap) = 20,
7. Rope=01,
8. Patrol=9 litres,
9. Drill Machine=01,
10. Wire Yellow=1,
11. Wire red=1 mobile,
12. Android mobile with sim=3 nos.
13. Mobile Keypad (Hero) with sim=1 no.

11. On the basis of above facts, complainant has prayed that the action may be taken against them, under the provisions of Sections 32 & 33 of the

Act of 1927 and Sections 286, 379 of IPC.

12. Thereafter, the police registered the case, under Sections 32 & 33 of the Act of 1927 and Sections 286, 379 of IPC and police machinery swung

into motion.

13. The articles, which were taken into possession, by the Forest Department, were taken over by the police. Spot was visited and spot map was

prepared. On the spot, no tent was found, however, signs of tents were found.

14. During investigation, the crystal stones and mobile phones, so recovered, were sent to laboratory and the explosive was found to be for

industrial use explosive, upon which, Section 3 of the Act of 1908, Section 21 of the Act of 1957 and Section 511 of IPC, were also added.

15. It is the further case of the police that out of the 16 persons, nabbed by the Forest Department, from the possession of 6 persons, explosive

substance was also found, whereas, 10 persons were found to be stealing crystal stones and found doing mining in the forest area, upon which,

Ramesh Kumar, Leela Dhar, Gopal, Narender Singh were found to have committed the offence, under Sections 32 and 33 of the Act of 1927, Section

21 of the Act of 1957 and Section 379 of the IPC, whereas, accused Devender Singh, Hem Raj, Bhoop Singh, Dhola Ram were found to have

committed the offence, under Sections 32 and 33 of the Act of 1927, and Sections 379 and 511 of the IPC. However, accused Partap Singh, Sanjay

(applicant in CrMP(M) No.49 of 2025), Jiwan Lal (applicant in CrMP(M) No.50 of 2025), Kiran Prakash, Dinesh Bhandari (applicant in CrMP(M)

No.48 of 2025) and Chander Mani (applicant in CrMP(M) No.47 of 2025) have been arrested for the offences, punishable under the Act of 1908.

Subsequently, they were produced before the Court, from where, they were remanded to judicial custody. 16. It is the further case of the police that

investigation, in the present case, is complete and chargesheet has been prepared, which, according to the status report, will be presented in the Court

of learned Special Judge, Kullu, after getting the same checked by the prosecution branch.

17. Lastly, it is the stand of the police that except the present one, no other case is registered against the applicants.

18. On the basis of above facts, a

prayer has been made to dismiss the application.

19. Admittedly, investigation, in the present case, is complete. The role, allegedly played by the applicants, in the crime, in question, will be proved,

during the trial.

20. The applicants are presumed to be innocent, as, except the present case, no other case is stated to have been registered against them.

21. Even otherwise, the applicants are in judicial custody, from the date of their arrest and their bail applications cannot be rejected, as a matter of

punishment, as, pre-trial punishment is prohibited, under the law.

22. Moreover, the police has not expressed any apprehension in the status report(s). Since, all applicants are the residents of District Kullu, except

applicant-Sanjay Kumar, who is the resident of District Mandi, as such, it cannot be apprehended that in case, they are ordered to be released on bail,

they may not be available for the trial.

23. Even otherwise, on the ground of parity, the applicants are also held entitled for the relief of bail, as, their co-accused, namely Partap Singh and

Kiran Prakash, have already been released on bail, by this Court, vide order dated 02.01.2025, passed in CrMPs(M) No.2911 and 2912 of 2024 and

the role, which has been alleged, against those applicants, in the said case, is the same, which has been alleged, against the present applicants.

24. In addition to this, the chances of commencement and conclusion of trial, against the applicants, in near future, are not so bright. As such, no useful

purpose would be served, by keeping the applicants, in judicial custody, that too, for the indefinite period.

25. Considering all these facts, this Court is of the view that the applicants are able to make out a case for their release, on bail, during the pendency

of the trial. Hence, the bail applications are liable to be allowed and are accordingly allowed.

26. Consequently, the applicants are ordered to be released on bail in case FIR No.13 of 2024, dated 12.01.2024, registered with Police Station

Bhuntar, District Kullu, H.P., under Section 3 of the Act of 1908, Sections 32 & 33 of the Act of 1927, Section 21 of the Act of 1957 and Sections 379

and 286 of the IPC, on their furnishing personal bonds, in the sum of ₹1,75,000/- each, with one surety each of the like amount, to the satisfaction of the

learned Chief Judicial Magistrate/Judicial Magistrate First Class, Kullu.

27. This order, however, shall be subject to the following conditions:

a) The applicants shall make themselves available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of

hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

b) The applicants shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

c) The applicants shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing

such facts to the Court or the Police Officer; and

d) The applicants shall not leave the territory of India without the prior permission of the Court.

28. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as, these observations, are

confined, only, to the disposal of the present bail applications.

29. It is made clear that respondent-State is at liberty to move appropriate application, in case, any of the bail conditions, is found to be violated, by any

of the applicants.

30. Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Sub-Jail, Kullu, through e-mail, with a direction to enter

the date of grant of bail in the e-prison software.

31. In case, the applicants are not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Sub-Jail, Kullu, is

directed to inform this fact to the Secretary, DLSA, Kullu. The Superintendent of Jail, Sub-Jail, Kullu, is further directed that if the applicants fail to

furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.

32. Copy of this order be placed in the connected case file i.e. CrMPs(M) No.48 to 50 of 2025.