**IN THE SUPREME COURT OF INDIA**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. OF 2026**
**(Arising out of SLP(Crl.) No.2770/2026)**

**STATE OF HIMACHAL PRADESH REPRESENTED BY ITS ADDITIONAL SECRETARY (HOME)** — **APPELLANT(S)**

**VERSUS**

**COURT ON ITS OWN MOTION** — **RESPONDENT(S)**

**O R D E R**

**1. Leave granted.**

**2. The State of Himachal Pradesh is in appeal against the judgment and order dated 26.04.2024 passed by a Division Bench of the High Court of Himachal Pradesh, whereby the application moved by the appellant-State seeking permission of the High Court to withdraw prosecution against sitting/former MPs/MLAs, in terms of the instructions issued by the State Government in a letter dated 31.12.2022, was partly allowed, and permission to withdraw prosecution was granted only in respect of the cases mentioned in the concluding part of the said judgment, namely, paragraph 58.**

**3. The occasion for the State to seek prior permission of the High Court for withdrawal of criminal prosecution arose in light of the directions contained in paragraph 8 of the order dated 10.08.2021 passed by this Court in *Ashwini Kumar Upadhyay v. Union of India and Another,* (2021) 20 SCC 599. In the aforesaid case, this Court, in larger public**

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Date: 2026.09.16 16:33:44 IST
Reason:

**interest, directed time-bound conclusion of trial against sitting or former MPs/MLAs by constituting Special Courts on a pan-India basis. Such trials were required to be concluded in a time-bound manner. This Court also issued various directions concerning the constitution and functioning of such Special Courts, including that the Presiding Officers of these Courts shall not be transferred, save and except upon their superannuation or in exceptional circumstances. One of the issues considered in the order dated 10.08.2021 was the misuse of the power of the prosecutor to withdraw cases under Section 321 of the Code of Criminal Procedure, 1973. It was in this context that this Court issued the following direction:**

> **"8. In view of the law laid down by this Court, we deem it appropriate to direct that no prosecution against a sitting or former MP/MLA shall be withdrawn without the leave of the High Court in the respective suo motu writ petitions registered in pursuance of our order dated 16.09.2020. The High Courts are requested to examine the withdrawals, whether pending or disposed of since 16.09.2020, in light of guidelines laid down by this Court."**

**4. It was in deference to the above-stated direction that the State of Himachal Pradesh approached the High Court seeking withdrawal of prosecution in 65 cases. Of these, five cases came to be disposed of while the application was pending consideration before the High Court, leaving 60 cases for consideration. *Vide* the impugned judgment and order dated 26.04.2024, the High Court allowed withdrawal of prosecution in 15 cases and declined the prayer in respect**

**of the remaining 45 cases. It is, however, a matter of record that, out of these 45 cases, 4 cases had already resulted in acquittal/discharge, and 2 had been wrongly repealed in the application. There were, thus, effectively 39 matters, for which the High Court declined permission to withdraw prosecution.**

**5. We find that the cases, where the State applied for withdrawal of prosecution, can be broadly categorized as follows:**

**(i) Cases under Section 269 Indian Penal Code, 1860 (IPC), registered during COVID-19 pandemic, alleging acts likely to spread infection of a disease dangerous to life;**

**(ii) Cases under Section 353 IPC, alleging assault or criminal force against a public servant during the COVID-19 pandemic, but without there being any instance of injury or assault having been caused to a public servant;**

**(iii) Cases under Sections 504 and 506 IPC, alleging breach of peace and criminal intimidation during the COVID-19 pandemic;**

**(iv) Cases under Section 8B of the National Highways Act, 1956, pertaining to *dharna,* etc., on the National Highway, during COVID-19 time; and**

**(v) Cases under Section 51 of the Disaster Management Act, 2005, which also pertain to incidents arising during the COVID-19 pandemic.**

**6. On perusal of the allegations contained in some of the FIRs, we find that the incidents in question pertain to the COVID-19 pandemic period. Those were exceptional circumstances, marked by unforeseen conditions, in which**

**persons, including public representatives, may have reacted or acted in ways that would not ordinarily have arisen in normal circumstances. Significantly, none of the cases discloses commission of any grave or heinous crime, nor is there any indication that the accused persons therein are hardened criminals or have indulged repeatedly in similar offenses. The allegations against the public representatives essentially relate to their participation in public *dharna* and/or raising the grievances of the general public before different forums.**

**7. In our considered view, continuation of prosecutions of this nature, arising out of special circumstances explained above, would neither serve the cause of administration of criminal justice system nor benefit the public interest in any manner. On the contrary, these proceedings would hamper the progress of other serious and contentious matters pending before the courts, which are required to be decided timely.**

**8. We, therefore, see no reason to not accept/allow the application of the State in entirety for withdrawal of prosecution in respect of all the cases which remain for consideration thereunder.**

**9. For the reasons aforestated, we allow this appeal. Accordingly, the impugned judgment of the High Court is modified to that extent and, while allowing CMP No.12451/2023, moved by the State of Himachal Pradesh before**

**the High Court, permission is granted to withdraw prosecution in respect of all the cases mentioned in the said application and remaining for consideration. Ordered accordingly.**

**.....CJI.**
**(SURYA KANT)**

**.....J.**
**(JOYMALYA BAGCHI)**

**.....J.**
**(V. MOHANA)**

**NEW DELHI;**
**SEPTEMBER 09, 2026**

ITEM NO.28 COURT NO.1 SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).2770/2026

[Arising out of impugned final judgment and order dated 26-04-2024 in CMP No.12451/2023 passed by the High Court of Himachal Pradesh at Shimla]

STATE OF HIMACHAL PRADESH REPRESENTED
BY ITS ADDITIONAL SECRETARY (HOME) Petitioner(s)

VERSUS

COURT ON ITS OWN MOTION Respondent(s)

IA No. 30048/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 30052/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 09-09-2026 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MRS. JUSTICE V. MOHANA

For Petitioner(s) :Mr. Anup Rattan, Advocate General
Mr. Vaibhav Srivastava, A.A.G.
Ms. Sugandha Anand, AOR
Mr. Puneet Rajta, Adv.

For Respondent(s) :Mr. Avnish Pandey, AOR
Mr. Dhruv Wadhwa, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.

2. The appeal is allowed in terms of the signed order.

3. All pending applications, if any, also stand disposed of.

(ARJUN BISHT) (PREETHI DILEEP KUMAR)
ASTT. REGISTRAR-cum-PS DY. REGISTRAR
(signed order is placed on the file)