

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**LPA No. 475 of 2026****Date of decision: 20.08.2026**

Shahjahan Ali	...Appellant
Versus	
State of H. P. & Ors.	...Respondents

*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Bipin C. Negi, Judge.****Whether approved for reporting?***For the Appellant(s):** Mr. Sunil Kumar and Parveen Sharma,
Advocates.**For the Respondents:** Mr. Rakesh Dhaulta, Additional
Advocate General.

G. S. Sandhawalia, Chief Justice (Oral)

Consideration in the present appeal is sought to the judgment passed by the learned Single Judge in **CWP No. 3114 of 2026**, titled as **Shahjahan Ali vs. State of H.P. & Ors.**, on 03.06.2026, whereby the learned single Judge dismissed the writ petition and the direction to release the petitioner on 42 days parole, as sanctioned vide release warrants dated 23.07.2025, was not granted.

2. The reasoning which prevailed with the learned Single Judge was that the Writ Court had no jurisdiction as the

grievance was against respondent No. 5 for not accepting the bond, who was District Magistrate, Malda, District Malda, West Bengal, which was located beyond the territorial jurisdiction of this Court and in view of the law laid down by the Apex Court in ***Madan Gopal Rungta vs. Secretary to Govt. of Orissa, AIR 1962 SC 1513*** that the writs issued by the High Court cannot run beyond the territorial jurisdiction of the Court.

3. The further observation was made that directions could not be issued as accepting a bond was quasi-judicial function and had to be discharged by the person accepting the bond and direction could not be issued to the authority to exercise the jurisdiction in a particular manner, as it would override the jurisdiction vested in the authority.

4. The learned Single Judge had also noticed the fact that the conviction as such had been recorded by the learned Sessions Judge, Kinnaur, under Sections 302 and 376 read with Section 511 of the Indian Penal Code (IPC). The petitioner was sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 50,000/- and in default of payment of fine to undergo further simple imprisonment for one year for the commission of offence under Section 302 and rigorous imprisonment for five years and to pay a fine of Rs. 25,000/-, for the commission of offence punishable under Section 376 of

IPC read with Section 511 of IPC. The appeal filed by the petitioner was dismissed by this Court on 11.12.2015 and he had served more than 16 years of sentence. On an earlier occasion, he was granted 126 days' parole and had surrendered within the stipulated time.

5. Learned counsel for the appellant has argued that there was no direction as such sought against respondent No. 5 while referring to the communication dated 12.12.2025, wherein respondent No. 4 i.e. Assistant Superintendent of Jail, Sub-Jail Nalagarh, had been informed by the Additional District Magistrate, Malda that surety bond of Rs. 1,00,000/- supported by Hebanama Deed, dated 22.04.2003 made by Smt. Bibi Hasnara wife of Mohammad Sanaullah and the mother of the life convict had been attached. It is, thus, submitted that the said bond would go on to show that the necessary documents had been produced before concerned respondent No. 5 and in such circumstances, it is deemed to be accepted and un-necessary reference thereafter on 17.12.2025 and 24.02.2026 was made by respondent No. 4 seeking clarification whether bond had been duly executed and accepted. It is, thus, submitted that once the communication dated 12.12.2025 had been received, it was beyond the jurisdiction as such of respondent No. 4 to start

communicating and, therefore, no direction is sought against respondent No. 5 and the writ would be maintainable.

6. A perusal of the paper book would go on to show that necessary directions were issued by this Court in **CWP No. 10557 of 2025**, titled as **Shahjahan Ali vs State of H.P. & Ors.** on 03.07.2025, to the respondents to consider and decide the parole application.

7. Reference can be made to the order dated 23.07.2025 showing that respondent No. 2 had passed the necessary order which was subject to release on parole to the satisfaction of the District Magistrate, Malda, for a period of 42 days. Respondent No. 4 had then addressed a communication on 25.07.2025 followed by another on 25.09.2025 to take necessary action on the parole case and forwarded the same to respondent No. 5.

8. It is the case of the appellant accordingly that on 16.09.2025 the appellant's mother had appeared before the District Magistrate, Malda and furnished the requisite surety bond and had fulfilled all the statutory requirements. Thereafter, the communication dated 12.12.2025 had been received. In spite of the said communication having been received, which showed that the bond as such had been attached, the respondents un-necessarily started

communicating as to whether the same had been accepted or not.

9. Learned counsel for the appellant is well justified in submitting that as per the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Rules, 1969, the requirement under Rule 3(5), the information is only to the extent whether the necessary bond has been furnished and the release is to be done thereafter. Relevant portion of the Rules reads as under:

“(5)On receipt of the Information from the District Magistrate that the necessary bonds have been furnished, the Superintendent of Jail shall release the prisoner for such period as is specified in the release warrant.”

10. Vide communications dated 17.12.2025 and 24.02.2026, it is, thus, apparent that the communication dated 12.12.2025 was not acted upon in the right manner by the respondents and this aspect had slipped the attention of the learned Single Judge. If respondent No. 5-District Magistrate, Malda had not accepted the bond, there was no question as such of a sending the copy of the surety bond with letter dated 12.12.2025. The said letter reads as under:-

In reference to the letter of the Asstt. Superintendent Jail, Sub Jail Nalagarh (HP), vide memo no.

SJ(NLG)2025/3713-74, Dated 06/11/2025 in connection with application in r/o Life Convict Shahjahan Ali S/o Sh. Mohammad Sanaulla for temporary release on Parole, whereas it is mentioned in serial no. 5 "The prisoner shall before his release on Parole furnish to the satisfaction of the District Magistrate, Malda (West Bengal) a personal bond or surety bond in the sum of Rs.1,00,000/- (Rs. One lakh) only for faithful observation of the conditions specified in the release warrant." A surety bond for Rs.1,00,000/- (Rupees One Lakh) only against Hebanama Deed No. 1-2361, dated 22.04.2003 made by Bibi Hasanara wife of Mohammad Sanaullah, the mother of the life convict Shahjahan Ali is attached herewith."

11. A perusal of the same would go on to show that there was no objection in the said letter that the bond suffered from any defect and, therefore, there was a misreading at the hands of the official-respondents.

12. Thus, this aspect could not be projected before the learned Single Judge. Accordingly, we are of the considered opinion that the appeal is liable to be allowed. Ordered accordingly.

13. Resultantly, direction is issued to the State as such to act upon the earlier order releasing the appellant on parole, by accepting the communication dated 12.12.2025 for implementing the order dated 23.07.2025, for the necessary

period as per the requirements. Needful be done within one week.

14. The appeal is allowed in the aforesaid terms, so also the pending applications, if any.

(G. S. Sandhawalia)
Chief Justice

20th August, 2026
(sanjeev)

(Bipin C. Negi)
Judge