

Court on its own motion Vs. State of Himachal Pradesh and another.

Item No. (D-6)

CMP No.9662 of 2026 in CWPIIL No.09 of 2020

27.08.2026

Present: Ms. Devyani Sharma, Senior Advocate with Mr. Shivam Sharma, Advocate, for the petitioner.

Mr. Rakesh Dhaulta, Additional Advocate General, for the respondents-State/applicants in CMP No.9662 of 2026.

CMP No.9662 of 2026

The present application under Rule 13, Part-IV of the Himachal Pradesh High Court Writ Rules has been filed for the withdrawal of the prosecution case in FIR No. 94/2017, dated 24.07.2017, lodged at Police Station East Shimla, District Shimla which is now the subject matter of Police Challan No.00121/2017, pending before the Court of the learned Judicial Magistrate, First Class, Court No. 6, Shimla, District Shimla. As stated in the application, one of the accused persons, namely Rakesh Singha, was an elected Member of the State Legislative Assembly. Resultantly, keeping this fact in view of the judgment of the Apex Court in ***Ashwani Kumar Upadhyay Vs. Union of India (2021) 20 SCC 599***, the said application has been filed.

2. A perusal of the FIR in question (**Annexure A-3**) would go on to show that there was a blockage of the road done near the Chhota Shimla Secretariat, in front of the Gurudwara at Gate No. 1. The road had been blocked for

about two and a half hours, preventing the movement of the general public and traffic. Resultantly, offences under Sections 341, 143, and 188 of the IPC being made out, led to the registration of the FIR. The alleged blockage was caused by 300 to 350 persons carrying banners of the 'Gudiya Nyay Manch' and raising slogans against the Government and the Police Administration.

3. Counsel for the Amicus Curiae has submitted that the trial is currently at the halfway stage, as six (6) out of twelve (12) witnesses have been examined, according to the last affidavit filed by the applicant/respondent on 26.05.2026. It was also pointed out that the road blockage was located on the main road, which connects Shimla to the road leading to Narkanda.

4. Reference has been made to the earlier order dated 26.04.2024, wherein the judgment of the Apex Court in ***State of Himachal Pradesh v. Umed Ram Sharma (1986) 2 SCC 68***, it was referred to hold access to a road is access to life itself. In the peculiar facts and circumstances of the State of Himachal Pradesh, roads and National Highways have been judicially recognized as lifelines for its citizens due to the absence of rail connectivity within the State. Resultantly, the application was not allowed in similar circumstances where as many as 26 FIRs had been lodged and National Highways were stated to be obstructed.

5. In such circumstances, we do not find any plausible reason to take a different view from the judgment dated 26.04.2024, passed by the Coordinate Bench of this Court, keeping in view the fact that the trial is substantially complete.

6. The application stands dismissed and disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

27th August, 2026
(Munish Thakur)