

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.211 OF 2026
IN
SUO MOTU WRIT PETITION NO.1 OF 2022**

State of Maharashtra ... Applicant
versus
High Court on its Own Motion ... Respondent

**WITH
INTERIM APPLICATION NO.212 OF 2026
IN
SUO MOTU WRIT PETITION NO.1 OF 2022**

State of Maharashtra ... Applicant
versus
High Court on its Own Motion ... Respondent

Mrs. M.M.Deshmukh, Public Prosecutor with Mr. A.R.Patil, Addl. Public Prosecutor, for State.

**CORAM: SHREE CHANDRASHEKHAR, CJ &
N.J.JAMADAR, J.**

DATE : 29 JANUARY 2026

Per, N. J. Jamadar, J. :

1. Heard the learned Counsel for the parties.
2. This Special Bench has been constituted pursuant to the directions of the Supreme Court in Writ Petition (Civil) No.699 of 2016 in an order dated 10 August 2021, dealing with the issue of withdrawal of criminal cases pending against the legislators by the State for extraneous and political considerations, by utilizing the power under Section 321 of the Code of Criminal Procedure,

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RAMCHANDRA
SANKPAL

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ARUN RAMCHANDRA
SANKPAL
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1973. The Supreme Court emphasised that the said power under Section 321 was required to be exercised with utmost good faith to serve the larger public interest. The Supreme Court directed, inter alia, that no prosecution against the sitting or former MP/MLA shall be withdrawn without the leave of the High Court.

3. These Interim Applications are preferred by the State seeking leave to withdraw the prosecution:

(i) CC No.102 of 2022 arising out of C.R.No.386 of 2021 registered with Chimur Police Station, Chandrapur, for the offences punishable under Sections 186, 187 and 188 of Indian Penal Code, 1860 and Section 135 read with Section 37(1) (3) of the Maharashtra Police Act, 1951 ("the Police Act, 1951") (IA No.211 of 2026) and,

(ii) CC No.34 of 2021 arising out of C.R.No.288 of 2019 registered with Bhis Police Station, Chandapur, for the offences punishable under Sections 341, 294, 506, 143, 171(c) and 171(f) of Indian Penal Code, 1860 and Section 135 of the Maharashtra Police Act, 1951 (IA No.212 of 2026).

In IA No.211 of 2026

4. The indictment against the accused, including accused No.1, who is a Member of the Maharashtra Legislative Assembly, is that, on 16th August 2021

at 1.00 pm, while the then Cabinet Minister, and, the Guardian Minister, Chandrapur, was attending an official programme at Hutatma Smarak in Chimur, the accused, without obtaining permission of the Revenue and Police Authorities took out a bike rally on the adjacent National Highway No.-353 E. The accused thereby obstructed the public servants in the discharge of their public functions and also disobeyed the lawful orders promulgated by the public servants. Hence, FIR was registered against the accused vide CR No. 386 of 2021, for the offences punishable under Sections 186, 187 and 188 of Indian Penal Code, 1860 and Section 37(1)(3) and Section 135 of the Maharashtra Police Act, 1951.

5. It is averred that, in pursuance of the GR dated 20th September 2022 containing guidelines for withdrawal of prosecution arising out of political and social agitations, the proposal to withdraw the prosecution in the instant case was placed before the Committee constituted by the State Government thereunder. The Public Prosecutor, who is entrusted with the prosecution in CC No.102 of 2022, has submitted a report that, in the incident in question there was no loss of life and no damage to the public property.

6. In its meeting held on 5th July 2024, the empowered committee has recommended the withdrawal of the prosecution. The Assistant Director and Public Prosecutor, Chandrapur has also opined that, it is fit case for withdrawal of prosecution.

7. We have perused the Application and the documents annexed thereto. We have examined the nature of the allegations and the gravity of the offences. Upon consideration of the material on record, we are of the *prima facie* view that the alleged offences have their genesis in the political agitation. We find that the Committee constituted by the State Government has examined the case for withdrawal of the prosecution, in the light of the parameters framed under the said Government Resolution. The Committee has noted that there was no loss of life or damage to the public property.

8. In our view, the decision of the Committee to recommend the withdrawal of prosecution appears to be guided by considerations which are in accord with the statutory provisions for withdrawal of the prosecution. The prosecution in this case seems to have arisen out of a political agitation. It does not appear that the prosecution is being withdrawn for any extraneous consideration. An independent application of mind by the concerned Public Prosecutor is also evincible from the report submitted by the learned Prosecutor.

9. For the foregoing reasons, we are inclined to allow the Interim Application to the extent of granting leave to the State Government to seek the withdrawal of the prosecution.

Interim Application No.212 of 2026

10. In the general elections for the Maharashtra Legislative Assembly, 2019, the brother of the first informant was a candidate for Chimur Constituency. On 20th October 2019, when the first informant was on his way to home at Shankarpur, the accused, including Accused No.17, who is a member of Maharashtra Legislative Assembly, accosted the first informant. It is alleged that, the accused formed an unlawful assembly and in prosecution of the common object of the unlawful assembly wrongfully restrained the first informant and threatened him for canvassing for the rival candidate.

11. On the basis of the report lodged by the first informant, the crime was registered vide C.R.No.288 of 2019 with Bhis Police Station, Chandapur, for the offences punishable under Sections 341, 294, 506, 143, 171 C and 171 F of Indian Penal Code 1860, and Section 135, for having committed the breach of the prohibitory order issued under Section 137 (1), of the Maharashtra Police Act, 1951.

12. In the instant Application, it is averred that, in pursuance of the decision taken by the State Government to withdraw the prosecutions arising out of the social and political agitations, the proposal to withdraw the prosecution was placed before the Committee constituted by the State Government vide G.R.No.20 September 2022. The said Committee in its meeting held on 5th July 2024, has considered the proposal and recommend the withdrawal of

prosecution. The Public Prosecutor, who is entrusted with the prosecution in C.C.No.34 of 2021, has submitted a report that, in the incident in question there was no loss of life and no damage to the public property. The Public Prosecutor has conveyed his no objection for the withdrawal of the prosecution.

13. We have perused the averments in the Application and the documents annexed thereto. We have carefully examined the nature of the accusation and the gravity of the alleged offences. Upon perusal of the record, we are of the *prima facie* view that the offences were allegedly committed during the course of campaigning for the Maharashtra Legislative Assembly Election, 2019. An altercation seems to have ensued between the followers of the rival candidates.

14. The Committee constituted by the State Government has examined the proposal for the withdrawal of the prosecution in conformity with the parameters prescribed in the aforesaid GR. The committee has noted that, there was no loss of life or damage to public property. We find that the decision of the Committee to recommend the withdrawal of prosecution appears to be guided by considerations which advance the object of the withdrawal of the prosecution arising out of social and political agitations. It does not appear that the prosecution is being withdrawn for any extraneous consideration. The Committee has expressly noted that there was no loss of

life or damage to the public property. The learned Public Prosecutor entrusted with the prosecution also seems to have independently assessed the situation and submitted a favourable report.

15. We are, thus, inclined to allow the Application to the extent of granting leave to the State Government to seek withdrawal of the prosecution.

16. In the event, the concerned Public Prosecutor files application for withdrawal of the prosecution, in each of the above cases, the jurisdictional Court shall pass appropriate order in accordance with law.

17. Interim Application Nos. 211 of 2026 and 212 of 2026 stand disposed.

18. Post Suo Motu Writ Petition on 5th February 2026 at 4.30 p.m.

(N.J.JAMADAR, J.)

(CHIEF JUSTICE)