



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MMO No.331 of 2026

Date of Decision: 16.04.2026

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Pushpa Devi

...Petitioner

Versus

State of Himachal Pradesh & Anr.

...Respondents  
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Coram:

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

***Whether approved for reporting?***<sup>1</sup> .

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For the Petitioner:

Mr. Ajay Kumar, Advocate.

For the Respondent:

Mr. Rajan Kahol & Mr. Vishal Panwar,  
Additional Advocate Generals with Mr.  
Ravi Chauhan & Mr. Anish Banshtu,  
Deputy Advocates General.

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Sandeep Sharma, J. (Oral)

By way of instant petition filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023, (in short "**BNSS**") challenge has been laid to order dated 06.03.2026 passed by learned Sessions Judge, District Kullu, HP, thereby rejecting the appeal filed by the petitioner under Section 495 of BNSS, laying therein challenge to order dated 23.01.2026 passed by learned Additional District Magistrate, Kullu, District Kullu, HP, for forfeiture of surety bond.

**2.** Having regard to the nature of the prayer and order proposed to be passed in the instant proceedings, this Court sees

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<sup>1</sup> Whether reporters of the local papers may be allowed to see the judgment?



no necessity to call for reply on behalf of the respondents, who are otherwise represented by Mr. Vishal Panwar, learned Additional Advocate General.

**3.** Precisely, the facts of the case, as emerge from the pleadings as well as other material adduced on record by the respective parties are that petitioner, who happens to be mother of the convict, Sh. Mukund Lal, had furnished surety bond on 26.05.2025 for the sum of Rs.2,00,000/- in the shape of landed property comprised in Khata Katauni No.717/927, 718/928, Khasra No.264, Khasra Kitta No.5, measuring 00-05-11 Bigha, situate in Muhal Kashawri, Sub Tehsil Jari, District Kullu, HP, at the time of release of her son, Mr. Mukund Lal, on parole for a period of 28 days. Afore Mukund Lal was convicted and sentenced to undergo rigorous imprisonment for a period of ten years for his having committed offence punishable under Section 20 of ND & PS Act. Above named convict applied for parole, which was granted by the competent authority subject to his furnishing surety bond in the sum of Rs.2,00,000/-. Surety bond, in terms of orders passed by competent authority, thereby granting parole in favour of convict Mukund Lal, was submitted by the petitioner on 26.05.2025. Though in terms of orders passed by competent authority, convict was to surrender after expiry of 28 days, but since he failed to do so on or before stipulated date, learned District Magistrate Kullu,



District Kullu, on the basis of information submitted by the Superintendent Jail, Lala Lajpat Rai, Dharamshala, issued show cause notice dated 23.07.2025, calling upon petitioner to explain that why surety bond furnished by her be not forfeited and the property mentioned therein be not attached to the State Government (Annexure P-2).

4. Though in terms of afore show cause notice, petitioner submitted reply (Annexure P-3), specifically stating therein that due to heavy rainfall and landslides in Manikaran valley from the month of June, 2025 onwards, convict could not surrender before jail authorities on or before stipulated date, but yet Additional Deputy Magistrate, Kullu, District Kullu, HP, exercising the power of District Magistrate, Kullu, District Kullu, HP, vide order dated 23.01.2026, directed petitioner to deposit sum of Rs.2,00,000/- in the Government Treasury on or before February, 2026 (Annexure P-4).

5. Being aggrieved and dissatisfied with aforesaid order passed by learned Additional Deputy Commissioner, Kullu, District Kullu, HP, petitioner preferred appeal under Section 495 of BNSS in the Court of learned Sessions Judge, District Kullu, HP, but same was dismissed vide order dated 06.03.2026 (Annexure P-6) on the ground that appeal was not maintainable as the order dated 23.01.2026 passed by learned Additional Deputy Magistrate, Kullu,



District Kullu, HP, was not a judicial order, as such, could not have been laid challenge in the instant proceedings. In the afore background, petitioner has approached this Court in the instant proceedings, praying therein to set aside the aforesaid order.

6. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Ajay Kumar, learned counsel for the petitioner, is that learned Additional Deputy Commissioner, Kullu, District Kullu, HP, while passing order dated 23.01.2026, failed to appreciate the explanation rendered on record by the petitioner qua delay in surrender by the convict, Mukund Lal. While referring to the reply filed to the show cause notice, Mr. Ajay Kumar, learned counsel for the petitioner, argued that once factum with regard to heavy rainfall and landslides in Manikarn valley from the month of June, 2025 onwards was brought to be notice of learned Additional Deputy Commissioner, Kullu, it was his bounden duty to ascertain afore fact before ordering forfeiture of the surety bond. He submitted that since plausible explanation was rendered on record qua delay in surrendering before jail authorities by the convict, Mukund Lal, there was no occasion, if any, for the learned Additional Deputy Commissioner, Kullu, District Kullu, HP, to pass impugned order dated 23.01.2026. He submitted that petitioner is a widow and has no source of income, save and except land, which is sought to be



attached. He states that since petitioner, after issuance of show cause notice, had offered plausible explanation on record, coupled with the fact that convict Mukund Lal has already been taken into custody, amount of Rs.2,00,000/-, being on the higher side, needs to be reduced.

7. To the contrary, Mr. Vishal Panwar, learned Additional Advocate General, while supporting impugned order dated 23.07.2025 passed by learned Additional District Magistrate, Kullu, submitted that once convict failed to return to the jail on or before stipulated date, no illegality can be said to have been committed by the learned Additional Deputy Commissioner in calling upon the petitioner, who stood surety in favour of the convict Mukund Lal at the time of his release on parole, to deposit amount of Rs.2,00,000/- in the Government Treasury.

8. Having heard learned counsel for the parties and perused material available on record, though this Court finds no illegality or infirmity in the order dated 06.03.2026 passed by learned Sessions Judge, District Kullu, HP, because admittedly order dated 23.01.2026, thereby calling upon the petitioner to deposit sum of Rs.2,00,000/- in the Government Treasury, was passed by learned Additional Deputy Commissioner on administrative side and not on judicial side. Pursuant to information given by the Superintendent of the jail concerned, afore authority



firstly issued show cause notice to the petitioner, who admittedly stood surety for the convict and thereafter, proceeded to pass order dated 23.01.2026. However, having carefully perused reply submitted by the petitioner to the show cause notice dated 23.01.2025 (Annexure P-3), this Court is persuaded to agree with Mr. Ajay Kumar, learned Counsel for the petitioner, that once factum with regard to heavy rainfall and landslides in Manikarn Valley from the month of June, 2025 onwards was brought to the notice of learned District Magistrate Kullu, it was bounden duty of the afore authority to ascertain and verify afore fact. In case afore explanation rendered on record was found to be genuine, there was no occasion, if any, for the afore authority to order forfeiture of the surety bond. No doubt, being surety, it was bounden duty of the petitioner to ensure surrender of the convict before stipulated date and in the event failure to do so, competent authority could always initiate proceedings for forfeiture of surety bond. Since in the case at hand, immediately after receipt of show cause notice, petitioner, being surety, apprised competent authority with regard to inability of the convict to surrender on or before stipulated date, coupled with the fact that factum with regard to landslides and heavy rainfall was never ascertained by the competent authority, prayer made on behalf of the petitioner through instant petition deserves to be considered.



**9.** Moreover, this Court finds from the perusal of order dated 23.01.2026, whereby petitioner came to be directed to deposit sum of Rs.2,00,000/- in the Government Treasury that afore authority nowhere took into consideration the reply filed by the petitioner to the show cause notice. Once petitioner had rendered explanation on record qua delay in surrendering by the convict, competent authority was expected to consider the same, this Court is convinced and satisfied that petitioner, being surety, was not negligent, rather she, immediately after receipt of show cause notice, promptly apprised authorities with regard to reasons, which disabled the convict Mukund Lal to surrender well within stipulated time.

**10.** Leaving everything aside, this Court is of the view that now since convict Mukund Lal has been taken into custody, fine of Rs.2,00,000/- imposed by the competent authority needs to be reduced, especially when plea of the petitioner with regard to her limited resources has not been disputed by the respondent-State.

**11.** Consequently, in view of the above, present petition is allowed and order dated 23.01.2026, thereby imposing penalty of Rs.2,00,000/-, is modified to the extent that petitioner shall pay sum of Rs.25,000/- instead of Rs.2,00,000/-, which shall be deposited within three weeks from today, failing which, order dated



23.01.2026 passed by learned Additional Deputy Commissioner,  
Kullu, District Kullu, HP, shall automatically revive.

**(Sandeep Sharma)**  
**Judge**

April 16, 2026  
(sunil)