

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

(WRIT PETITION NO. 38432/2025)

COURT ON ITS OWN MOTION

VERSUS

**HIGH COURT OF MADHYA PRADESH
THROUGH REGISTRAR GENERAL**

DATED: 22/09/2025

This Court feels compelled to initiate this *suo motu* proceeding in view of the two separate orders passed by the Ld. Single Bench of this Court at Gwalior on 12/09/2025 in M.Cr.C No. 27465/2025 (Roop Singh Parihar Vs. State of Madhya Pradesh) and M.Cr.C No. 28265/2025 (Imratlal Vs. State of Madhya Pradesh). Both these cases have arisen from Crime No. 375/2024 registered as P.S. Kotwali, District Shivpuri, u/ss. 420, 409, 467, 468, 471, 120B and 107 of IPC and s. 13(1)(A) of the Prevention of Corruption Act.

2. Both the aforementioned M.Cr.C's were repeat applications for grant of regular bail, that were dismissed by the Ld. Single Bench. Besides the application for bail, it does not appear that there were any other proceedings pending before the Ld. Single Bench arising from the same crime number. So far as it relates to the dismissal of the two bail applications, the same do not

concern this Court. It is paragraph 12 of the aforementioned orders, that has disturbed this Court.

3. The brief facts of the case are as follows. The applicant Roop Singh Parihar was the computer operator in the office of the Land Acquisition Officer and is alleged to have embezzled money by transferring into the account of persons, including himself, while being not competent to receive, such money meant for disbursal of compensation to the beneficiaries whose lands were acquired. The Ld. Trial Court discharged the accused Roop Singh Parihar for all the offences and instead framed a charge u/s. 406 IPC for criminal breach of trust. It is relevant to mention here, that from the order mentioned hereinabove, it does not appear that any revision (if at all filed) by the State was pending before the same Ld. Single Bench of this Court. In paragraph 12 of these order, the Ld. Single Bench has passed damning and disparaging remarks against the Ld. Trial Court much against the consistent law laid down by the Hon'ble Supreme Court to the effect that the High Courts must desist from passing observation which have the propensity to besmirch the fair name of the Trial Court Judge, even before he is given an opportunity to defend his order.

Further, the Ld. Single Bench has unfortunately even named the Ld. Judge of the District Judiciary instead of referring to the Ld. Judge by the Court he occupied (1st ADSJ, Shivpuri) and the public domain is rife with the controversy. The observations of the Ld. Single Bench are as follows:

“A copy of this order be sent to the Principal Registrar (Vigilance), High Court of Madhya Pradesh, Principal Seat, Jabalpur and to put up the same before the Hon'ble Chief Justice, High Court of Madhya Pradesh seeking permission for conducting an inquiry and for taking disciplinary action against 1st Additional Sessions Judge (Shri Vivek Sharma), Shivpuri who had discharged the present applicant from the offences punishable under Sections 409, 420, 468, 471, 120-B and 107 of IPC without considering the facts of the case and to give undue advantage to the applicant to get benefit of bail. Therefore, it appears that 1st Additional Sessions Judge has ulterior motive in holding charge under section 406 of IPC only against the applicant to give undue advantage to him by which applicant can avail the benefit of bail.” (Emphasis added)

4. The aforesaid direction is chilling. Firstly, it concludes that the order of discharge passed by the Ld. 1st ADSJ was to “give undue advantage” to the accused and secondly, it speculates ulterior motive on the part of the Ld. 1st ADSJ by observing “..it

appears that 1st Additional Sessions Judge has ulterior motives”. This unfortunately was absolutely uncalled for and a violation of the Hon'ble Supreme Court's consistent direction to the High Court to desist from such observations in judicial orders.

5. Most recently, the Hon'ble Supreme Court in **Sonu Agnihotri Vs. Chandra Shekhar and Ors., - 2024 INSC 888**, the Supreme Court held in paragraph 15 that **“The superior courts exercising such powers can set aside erroneous orders and expunge uncalled and unwarranted observations. While doing so the superior courts can legitimately criticise the orders passed by the Trial Courts or the Appellate Courts by giving reasons. There can be criticism of the errors committed, in some cases, by using strong language. However, such observations must always be in the context of errors in the impugned order. While doing so, the courts have to show restraint, and adverse comments on the personal conduct and calibre of the Judicial Officer should be avoided. There is a difference between criticising erroneous orders and criticising a Judicial Officer. The first part is permissible. The second category**

of criticism should best be avoided.” In paragraph 16, it went on to hold **“As stated earlier, the higher court can always correct the error, However, while doing so, if strictures are passed personally against a Judicial Officer, it causes prejudice to the Judicial Officer, apart from the embarrassment involved. We must remember that when we sit in constitutional courts, even we are prone to making mistakes. Therefore, personal criticism of Judges or recording findings on the conduct of Judges in judgments must be avoided.”** (Emphasis added).

6. The observations in paragraph 12 of the orders under consideration were in excess of the exercise of bail jurisdiction as the Ld. Single Bench was not in seisin of any revision preferred against the order passed by the Ld. Trial Court but has yet, commented upon the order framing charge by the Ld. Trial Court.

7. This Court under article 227 and 235, exercises the power of superintendence over the District Judiciary. In that capacity, it has to not only correct the errors on the

part of the District Judiciary, but has to also discharge its function as the guardian of the District Judiciary. The High Court becomes the sentinel protecting the District Judiciary from its (High Court's) excesses and ensure that the independence and fearlessness of the District Judiciary is not emasculated (as in weaken or reduced in power and authority).

8. However, as the said orders have been passed in M.Cr.Cs, the same are not amenable to the appellate jurisdiction of this Court. Earlier, in similar cases, writ appeals have been entertained *suo motu* by the division bench of this Court holding that exceeding jurisdiction in a bail order would be considered as an order passed under article 226. This Court is wary to follow suit. Though, extraordinary jurisdiction under article 226 and inherent jurisdiction under section 482 Cr.P.C inheres in the High Court, irrespective of the roster, the exercise of either has to be through a conscious process where the High Court, unambiguously or through inescapable inference, discloses its intention to exercise such authority. However, when the

High Court exceeds its discretion and jurisdiction in a given case, the same has to be deemed an error on the part of the High Court rather than presuming the same to be an order in the exercise of its extraordinary or inherent jurisdiction.

9. As judicial discipline dictates the said orders under consideration are untouchable by this Court and it is only the discretion of the Hon'ble Supreme Court, if it so deems fit, to judicially consider the said orders, this Court directs the respondent to forthwith file a Special Leave Petition before the Hon'ble Supreme Court within a period of ten days from the date of this order. As this order is not passed in an adversarial capacity, and there is no adversity suffered by the High Court on account of this order, it obviates the necessity to issue notice and call for a reply from the High Court.

10. List on 06/10/2025 on top of the list for further orders.

(ATUL SREEDHARAN)
JUDGE

(PRADEEP MITTAL)
JUDGE

VIVEK KUMAR
TRIPATHI

Digitally signed by VIVEK KUMAR TRIPATHI
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