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WP-39690-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 21st OF SEPTEMBER, 2026

WRIT PETITION No. 39690 of 2025

MOHD. SHAMIM KHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Sunil Kumar Pandey - Advocate for the petitioner.

Shri A.S. Baghel - Government Advocate for the respondents.
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Heard on - 07.09.2026

Pronounced on - 21.09.2026

ORDER

This petition under Article 226 of the Constitution of India has been filed by the petitioner seeking quashment of FIR registered at Police Station Adhartal, District Jabalpur, in Crime No.513/2024 for offences punishable under Sections 304, 120-B and 212 of the Indian Penal Code and Sections 3 and 5 of the Explosive Substances Act, 1908. The petitioner has also prayed for a direction for fair investigation, constitution of an SIT and submission of a Khariji/Khatma report in his favour.

2. The prosecution case, as emerging from the FIR and the material placed on record, is that on 25.04.2024 an explosion took place at a scrap-yard/premises known as Raza Metal Industries/ShamimKabada, situated at Village Chanti, District Jabalpur, in which Bholaram Bhumiya and Mohd. Khalil died and two other persons sustained injuries. In connection with the



incident, Crime No.513/2024 was registered at Police Station Adhartal for the aforesaid offences. The petitioner is the father of co-accused Mohd. Faheem Khan, who is stated to be the proprietor of Raza Metal Industries. During investigation, it was alleged that the scrap stored in the yard consisted of demolished ammunition and explosive substance procured from Long Proof Range, Khamaria, Jabalpur and its unsafe handling led to the blast.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in Crime No.513/2024 registered at P.S. Adhartal, District Jabalpur. The incident dated 25.04.2024 took place at a scrap-yard known as Raza Metal Industries situated at Khasra No.129, 130/2, Village Chanti, District Jabalpur. The said premises and business is the sole proprietorship concern of the petitioner's son, Mohd. Faheem Khan. It is submitted that the petitioner has no concern whatsoever with the said business. The entire revenue record, mutation, permission / NOC issued by Town & Country Planning, Jabalpur Development Authority, M.P. Poorva Kshetra Vidyut Vitaran Company and Municipal Corporation, Jabalpur as well as GST registration and Udyam registration of Raza Metal Industries stand exclusively in the name of Mohd. Faheem Khan. The petitioner is neither a proprietor, nor a partner, nor a Director.

4. Learned counsel further submits that the petitioner is a permanent resident of Nagpur, Maharashtra for the last more than five years and has been residing separately from his son. He had no role in the day-to-day management, collection, storage or handling of scrap at Jabalpur. It is further



contended that the scrap in question was procured from Long Proof Range, Khamaria under an arrangement between the defence establishment and one Sultan Ali vide agreement dated 12.08.2023, and thereafter vide agreement dated 21.08.2023 between Sultan Ali and Mohd. Faheem Khan. The petitioner is not a party to either agreement and no overt act or responsibility has been assigned to him. Learned counsel invites attention to communication dated 04.07.2024 issued by MSTC Limited which clarifies that the photo identity card issued in favour of Raza Metal Industries did not authorize purchase or handling of explosives, and communication dated 29.04.2024 of the Ministry of Defence to contend that only Sultan Ali was authorized. Therefore, no criminal liability under Sections 3 and 5 of Explosive Substances Act, 1908 can be fastened upon the petitioner.

5. It is argued that the petitioner had submitted a detailed representation dated 01.05.2024 before the Superintendent of Police, Jabalpur for fair and impartial investigation, but no heed was paid. The final report / charge-sheet filed against the co-accused does not attribute any specific role, meeting of minds, or knowledge to the petitioner. The ingredients of Sections 304, 120-B, 212 IPC are not attracted qua the petitioner.

6. It is, therefore, submitted that implicating the petitioner only on account of being father of the proprietor is pure abuse of process of law. Continuation of criminal proceedings would be travesty of justice. Reliance is placed on the principles laid down in **State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335** and **Vineet Narain Vs. Union of India, (1998) 1**



SCC 226 for quashment of FIR and for direction for fair investigation by SIT. It is therefore prayed that the FIR, insofar as it relates to the petitioner, be quashed and appropriate directions be issued for a fair investigation.

7. *Per contra*, learned counsel for the State opposes the petition and submits that the petition is founded upon suppression of material facts and incorrect disclosure of the petitioner's conduct and antecedent proceedings. It is submitted that the petitioner has repeatedly approached this Court in connection with the same crime but has not disclosed the earlier proceedings while instituting the present petition. According to the State, such suppression assumes significance particularly because the petitioner seeks extraordinary relief under Article 226 of the Constitution.

8. Learned counsel for the State submits that the petitioner had earlier approached this Court for anticipatory bail in M.Cr.C. No.22560/2024, which was dismissed for want of prosecution on 02.07.2024, and thereafter in M.Cr.C. No.50550/2024, which was rejected on 20.03.2025. It is submitted that during consideration of the latter application, material concerning the petitioner's connection with the affairs of the scrap-yard and his conduct after the incident had been brought before the Court. The State further submits that the petitioner had earlier filed M.Cr.C. No.54027/2024 seeking quashment of the very same FIR, which was withdrawn on 20.03.2025, and subsequently filed M.Cr.C. No.22180/2025, which was also withdrawn by order dated 05.05.2026. According to the State, non-disclosure of these proceedings is a material suppression.

9. Learned counsel for the respondent/State, has also taken a



preliminary objection with regard to the maintainability of the present writ petition on the ground of defective verification and affidavit. It is submitted that the present writ petition under Article 226 of the Constitution of India has not been supported by an affidavit of the petitioner himself. The affidavit filed in support of the writ petition has been executed by one person claiming himself to be the brother-in-law of the petitioner. It is contended that as per M.P. High Court Rules, 2008 and as per settled law, a writ petition must be supported by an affidavit of the petitioner himself or by a person duly authorized and having personal knowledge of the facts deposed. A brother-in-law is not a duly constituted power of attorney holder nor a person in seisin of the affairs of the petitioner. The affidavit is, therefore, not in accordance with law.

10. Learned counsel for the State further submits that the petitioner's assertion that he had no connection whatsoever with the scrap-yard is contrary to the material collected during investigation. The statements of the workers, according to the prosecution, specifically indicate that the petitioner was involved in the affairs of the scrap-yard and used to issue instructions to the labourers. The State also relies upon the memorandum statement of co-accused Faheem Khan and the statement of the worker who allegedly stated that the petitioner attempted to influence him by offering Rs. 5 lakh and employment. It is further submitted that the petitioner's conduct after the incident is also relevant. According to the State, the incident occurred on 25.04.2024 and the petitioner left India on 29.04.2024. A Look Out Circular was thereafter issued on 23.05.2024 and a reward was declared for his



apprehension. The State submits that the petitioner has remained unavailable to the investigating agency and has not cooperated with the investigation for a considerable period.

11. Learned counsel for the State disputes the petitioner's assertion that he has been residing at Nagpur for the last several years. It is submitted that in various proceedings and representations the petitioner himself disclosed his residence as Jabalpur, and that even in the earlier anticipatory bail proceedings his residence was shown as Jabalpur. The State also relies upon a power of attorney placed on record in earlier proceedings to contend that the petitioner had himself asserted an interest in the property on which the incident occurred.

12. Learned counsel for the State submits that the question whether the statements relied upon by the prosecution are ultimately sufficient to establish the petitioner's guilt is a matter for the competent criminal court and cannot ordinarily be examined in detail in exercise of writ jurisdiction, particularly when the investigation is still pending qua the petitioner. It is contended that the material collected during investigation, at this stage, cannot be brushed aside merely on the basis of the documents relied upon by the petitioner. It is further submitted that the prayer seeking discharge from the offences is not maintainable in the present proceedings. According to the State, where a charge-sheet is filed, the accused has an appropriate statutory remedy before the competent criminal court, whereas in the present case the petitioner has not cooperated with the investigation and has remained absconding. The prayer for constitution of an SIT and for a closure report is



also opposed on the ground that the petitioner himself has not submitted to the process of investigation.

13. It is also submitted that the petitioner is a habitual offender having a long criminal antecedent. As per the list maintained at Police Station Adhartal and other police stations of District Jabalpur (Annexure R/8), as many as 18 criminal cases from the year 1995 to 2024 have been registered against the petitioner for offences punishable under Sections 302, 307, 324, 327, 379, 384, 386, 420, 447, 506 IPC and under Arms Act, Explosive Substances Act, 1908 and Gambling Act, in which he has been charge-sheeted and has remained in custody in past. The petitioner is a history-sheeter of P.S. Adhartal and his criminal activities are continuous, which itself disentitles him from invoking the extraordinary discretionary jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

14. Learned counsel for the State further submits that a litigant invoking the extraordinary jurisdiction of this Court must approach the Court with complete disclosure of all material facts. Reliance is placed upon **Kishore Samrite v. State of U.P.**, (2013) 2 SCC 398 and **Auroville Foundation v. Natasha Storey**, 2023 SCC OnLine SC 556, to contend that suppression of material facts and abuse of the judicial process disentitle a litigant from discretionary relief.

15. On these grounds, learned counsel for the State submits that the present petition is devoid of merit and deserves to be dismissed.

16. In rebuttal, learned counsel for the petitioner submits that there is



no deliberate suppression of any material fact. It is submitted that the petitioner has already filed applications for bringing on record the documents relating to rejection of the earlier anticipatory bail applications and the proceedings initiated in connection with the same crime. Learned counsel further submits that vide order dated 16.04.2026, the coordinate Bench of this Court, after taking into consideration the aforesaid facts and the material available on record, has already granted interim protection in favour of the petitioner by directing that no coercive action be taken against him. Therefore, according to learned counsel, the allegation that the petitioner obtained the order by suppressing material facts is unfounded.

17. As regards the objection regarding the affidavit, learned counsel submits that the objection is wholly technical and has no bearing on the merits of the case. It is submitted that the person who has sworn the affidavit is the petitioner's brother-in-law and was duly authorized by the petitioner, and that he had also executed the affidavit on behalf of the petitioner in the earlier proceedings.

18. With regard to the allegation that the petitioner is a history-sheeter having a long criminal antecedent, learned counsel submits that the list furnished by the State is disputed. According to him, in some of the cases relied upon by the State, the petitioner was not an accused at all. In respect of certain other cases, the petitioner had sought information under the Right to Information Act, but was informed that the relevant records had already been destroyed. It is therefore submitted that the alleged list of criminal cases has been selectively relied upon to prejudice the petitioner and tarnish his



reputation. Learned counsel further submits that, in any event, criminal antecedents by themselves cannot constitute the sole basis for denying relief to an accused, particularly when the specific allegations and material concerning the offence in question are required to be examined independently.

19. Heard the rival submissions of parties and perused the case diary.

20. Before advertng to the merits, the preliminary objections raised by the learned counsel for the State regarding maintainability as well as entertainability of the present petition require consideration.

21. On the objection regarding maintainability, this Court has considered the submission of the State. It is not in dispute that M.Cr.C. No.54027/2024 and subsequently M.Cr.C. No.22180/2025 were withdrawn by the petitioner without obtaining liberty to file afresh.

22. The said objection is liable to be rejected in view of the law laid down by the Hon'ble Supreme Court in **Muskan Enterprises and Another Vs. State of Punjab and Another**, reported in (2024) 20 SCC 85. The Hon'ble Supreme Court has categorically held that the principle of res judicata, traceable to Section 11 CPC, has no application to criminal proceedings and there is no provision in the Cr.P.C. akin to Order XXIII Rule 1(3) CPC. The procedural laws governing civil and criminal proceedings are distinct and the High Court cannot import the rigours of Order XXIII Rule 1(3) CPC to non-suit a petition under Section 482 Cr.P.C. / 528 BNSS which was earlier withdrawn as not pressed, without decision on merits.

23. Consequently, mere withdrawal of the earlier petition(s) without



express liberty does not create a bar to maintainability of the successive petition, particularly when there is a change in circumstances. The present petition is therefore held to be maintainable.

24. The second objection is that the petitioner's earlier application for anticipatory bail, M.Cr.C. No.50550/2024, was rejected by order dated 20.03.2025 and, therefore, the present petition seeking quashment of the FIR ought not to be entertained.

25. This Court also finds substance in the submission of learned counsel for the petitioner that a Coordinate Bench of this Court, while considering the material then available on record, had already granted interim protection to the petitioner vide order dated 16.04.2026 by directing that no coercive action be taken against him. The said interim order continued to operate during the pendency of the present petition. Therefore, the objection raised by the State that the petitioner's anticipatory bail application had earlier been rejected cannot be treated as determinative of the issues arising in the present proceedings.. It is well settled that the considerations governing an application for anticipatory bail are entirely distinct from those applicable while examining whether the allegations and material disclose the ingredients of the offences alleged. Observations made while declining anticipatory bail are tentative in nature and cannot operate as a final adjudication on criminal liability. The rejection of anticipatory bail, therefore, does not preclude this Court from independently examining whether continuation of criminal proceedings would amount to abuse of the process of law. The Coordinate Bench having granted interim protection



despite being aware of the earlier proceedings and the material placed by the State, the contention regarding rejection of anticipatory bail loses much of its force and cannot override the requirement that the prosecution must disclose foundational material connecting the petitioner with the alleged offences.

26. The objection raised by the learned counsel for the State regarding the affidavit accompanying the petition also requires consideration. It is not in dispute that the affidavit has been sworn by the petitioner's brother-in-law and not by the petitioner himself. However, the said defect, in the facts of the present case, is essentially a procedural irregularity and not a defect going to the root of the jurisdiction of this Court. The State has not demonstrated that any material fact has been falsely verified by the deponent or that the petitioner has derived any unfair advantage on account of the affidavit having been sworn by his brother-in-law.

27. It is also the specific case of the petitioner that the deponent was duly authorised by him and had sworn affidavits on his behalf in the earlier proceedings. The objection, therefore, cannot by itself furnish a ground for dismissal of the petition, particularly when the pleadings and documents are otherwise available before the Court and the State has had full opportunity to contest the matter on merits.

28. The requirement of proper verification and affidavit is intended to ensure responsibility for the pleadings and prevent abuse of the process of the Court. It is not ordinarily intended to defeat a substantive adjudication merely on account of a curable procedural defect. In the present case, no prejudice caused to the State on account of the affidavit having been sworn



by the petitioner's brother-in-law has been demonstrated. The objection is, accordingly, treated as a curable procedural irregularity and does not affect the maintainability or merits of the present petition.

29. At the same time, this Court makes it clear that the present finding is confined to the facts of this case and shall not be construed as laying down that an affidavit by an unauthorised person is permissible in every writ petition. Where the defect is shown to be deliberate, material or prejudicial, the Court may pass an appropriate order in accordance with law.

30. Having held that the petition is entertainable, the Court now proceeds to examine whether the material available on record discloses sufficient foundational material connecting the petitioner with the offences alleged against him.

31. In the present case, the factum of the explosion and the unfortunate death of two persons is not in dispute. The limited question is whether the material placed before this Court discloses sufficient foundational material connecting the present petitioner with the offences alleged against him. The official documents relied upon by the petitioner, including the registration documents, permissions, electricity records and agreements, disclose Mohd. Faheem Khan as the person concerned with Raza Metal Industries and the premises. The agreements dated 12.08.2023 and 21.08.2023 have not been shown to have been executed by the petitioner. The MSTC communication (Annexure-P/13) also does not confer any authority upon the petitioner to purchase or possess explosives.

32. As regards Section 304 IPC, the prosecution is required to



establish a causal nexus between the act or omission attributable to the accused and the death caused, coupled with the requisite intention or knowledge contemplated under Section 299 IPC. Section 304 is attracted only where the act resulting in death constitutes culpable homicide, and therefore, the prosecution must prima facie demonstrate that the accused either intended to cause death, intended to cause such bodily injury as was likely to cause death, or had knowledge that his act was likely to cause death.

33. The State has relied upon statements of workers alleging that the petitioner visited the scrap yard and gave instructions. Even if such statements are taken at their face value, mere presence at the premises, familial relationship with the proprietor, or giving general instructions to workers, without material showing participation in the alleged conspiracy, knowledge and possession or control of explosive substance, or participation in the act causing the explosion, cannot by itself establish the necessary ingredients of the offences alleged. Criminal liability cannot be fastened upon a person merely because of his relationship with another accused. It is also significant to note that despite the seriousness of the allegations and the fact that the investigation has remained pending for a considerable period, no effort has been made by the prosecution to have such statements recorded before the Magistrate under Section 164 of the Cr.P.C. Statements recorded under Section 161 Cr.P.C. are part of investigation and are not substantive evidence. In the absence of statements recorded under Section 164 Cr.P.C. or any independent documentary material showing the petitioner's control over the premises, possession of explosives or



participation in the alleged conspiracy, the allegations remain unsupported by stronger foundational material. Though non-recording of statements under Section 164 Cr.P.C. may not, by itself, be fatal in every case, in the peculiar facts of the present case, where the prosecution seeks to implicate the petitioner primarily on the basis of oral allegations of workers despite the official documents standing in the name of another person, the absence of such corroborative material assumes significance.

34. In the present case, there is no material to show that the petitioner participated in the procurement, possession, storage or handling of the explosive substance, or that he was responsible for the circumstances in which the explosion occurred. There is also no material indicating any specific act or omission on his part having a direct nexus with the deaths in question or demonstrating the requisite intention or knowledge. Mere association with the proprietor of the premises, or alleged presence and issuance of general instructions at the scrap-yard, without any further material establishing participation in the act which resulted in the explosion, cannot satisfy the foundational requirements of Section 304 IPC.

35. So far as Section 120-B IPC is concerned, criminal conspiracy requires material from which an agreement or meeting of minds for commission of the alleged offence can reasonably be inferred. Likewise, Section 212 IPC requires the statutory elements of harbouring or concealing an offender. Sections 3 and 5 of the Explosive Substances Act. 1908 require specific circumstances connecting the accused with causing the explosion or with making, possessing or having control over an explosive substance. The



material brought before this Court does not disclose such foundational circumstances against the petitioner.

36. This Court is conscious of the serious nature of the incident and the unfortunate loss of two lives. However, seriousness of the offence cannot dispense with the requirement of material connecting the particular accused with the alleged criminal acts. The present case does not require appreciation of witness credibility; rather, the material on record is being considered only to determine whether the basic ingredients of the alleged offences are disclosed against the petitioner. On such consideration, the requisite foundational material is absent.

37. In view of the aforesaid discussion, this Court is of the considered opinion that the material available on record does not disclose the necessary foundational ingredients of Sections 304, 120-B and 212 of the IPC or Sections 3 and 5 of the Explosive Substances Act, 1908 against the present petitioner. There is no sufficient material showing his participation in causing the explosion, possession or control over the alleged explosive substance, participation in a criminal conspiracy or harbouring of any offender. Continuation of criminal proceedings against him would therefore amount to abuse of the process of law.

38. Consequently, the petition is **allowed**. The criminal proceedings arising out of Crime No.513/2024 registered at Police Station Adhartal, District Jabalpur, for offences under Sections 304, 120-B and 212 of the Indian Penal Code and Sections 3 and 5 of the Explosive Substances Act, 1908, are hereby quashed insofar as the present petitioner Mohd. Shamim



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Khan is concerned. This order shall remain confined to the petitioner and shall not affect the investigation, prosecution or trial of any other accused in accordance with law.

(HIMANSHU JOSHI)
JUDGE

Prachi