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**(2014) 03 SHI CK 0013**  
**In the High Court Of Himachal Pradesh**  
**Case No : Cr. M.P. (M) No. 275 of 2014**

Ramesh Chand

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

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**Date of Decision :** 26-03-2014

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 438  
Penal Code, 1860 (IPC) — Section 379, 411

**Citation :** (2014) 2 ShimLC 811

**Hon'ble Judges :** Tarlok Singh Chauhan, J

**Bench :** Single Bench

**Advocate :** N.K. Thakur, Advocate and Ishita Bhandari, Advocate for the Appellant; Virender Kumar Verma, Meenakshi Sharma, Additional Advocate Generals and Parul Negi, Deputy Advocate General, Advocate for the Respondent

**Final Decision :** Disposed Off

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## Judgement

Tarlok Singh Chauhan, J.—This petition, u/s 438 Cr.P.C. has been preferred by the petitioner for issuing direction to police of Police Station, Kajngra, District Kangra to admit the petitioner on bail in FIR No. 52 of 2014, dated 13.3.2014, registered at Police Station Kangra, under Sections 379, 411 IPC. The case of the prosecution as appears from the police report is that police of CIA Staff raided the house of one Sham Lal, who was working as Beldar in HPPWD Wing Lanj from where it is alleged that 21 bags of cement stamped of 2014 being stamp "not for sale (only HP Government Supply)" were recovered. The said Sham Lal was initially arrested, but is now on bail. The petitioner is stated to be a government contractor and the cement is alleged to have been issued to him. It is alleged that his house is used as a store for carrying out this illegal sale and transportation of cement, which is meant for government supplies.

2. Mr. Verma, learned Additional Advocate General assisted by Ms. Meenakshi Sharma, Addl. A.Gs with Ms. Parul Negi, Deputy Advocate General, has strenuously argued that not only the petitioner, but even Sham Lal alongwith

certain government officials are involved in a racket of illegal sale of cement meant for H.P. Government supply.

3. On the other hand, Sh. N.K. Thakur, learned Senior Advocate assisted by Ms. Ishita Bhandari, Advocate has strenuously contended that though the petitioner is a contractor but no cement meant for government supply for the year 2014 has been released till date in his favour. According to him, the petitioner cannot be connected with the offence, rather it is the claim of the petitioner that cement has been recovered from Sham Lal, who admittedly is none other than the Beldar in H.P.P.W.D., and if all the facts and circumstances are taken into consideration then the pilferage of cement meant for government supply appears to be at the behest and inter-se the officers and officials of Public Works Department and not the petitioner.

4. I have gone through the police report and find that petitioner is a permanent resident of village Lanj Khas and is contractor by occupation. Therefore, I do not see any chances of his fleeing from justice. Even otherwise, as on date, there is no recovery whatsoever to be effected from the petitioner. Moreover, the State has not been able to carve out a case for custodial interrogation. Therefore, keeping in view the aforesaid facts and circumstances, in my considered opinion this is a fit case where petitioner is ought to be released on bail.

5. Accordingly, the petition is allowed and petitioner is ordered to be released on bail in FIR No. 52 of 2014, dated 13.3.2014, registered at Police Station Kangra, under Sections 379, 411 IPC, on his furnishing personal bond in the sum of Rs. 50,000/- with one surety of the like amount to the satisfaction of any Judicial Magistrate stationed at Nurpur, District Kangra. It is clarified that petitioner shall fully cooperate with the investigation, will not tamper with the prosecution evidence, will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; they shall make themselves available during trial. The learned Judicial Magistrate is directed to comply with the directions issued by the High Court vide letter No. HHC.VIG/Misc. Instructions/93-IV-7139 dated 18.3.2013. Any observation made hereinabove shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made hereinabove. The petition stands disposed of.