



IN THE HIGH Court OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 85 OF 2025

- 1] Mr. Govind s/o. Yashwant Samudre,
Age: 32 Years, Occu: Business,
R/o. Siddhartha Nagar, Nandurbar,
District Nandurbar.
- 2] Mr. Pavba s/o. Bhikan Akhade,
Age: 28 years, Occu: Labour,
R/o. Shindagavhan, Tq. Nandurbar,
Dist. Nandurbar.
- 3] Mr. Vishwajit @ Bobby Sanjay Baisane,
Age: 29 years, Occu: Education,
R/o. Samata Colony, Nandurbar,
Dist. Nandurbar.
- 4] Mr. Dipak Sham Thakare,
Age: 25 years, Occu: Labour,
R/o. Chinchpada Bhilati, Tq. Nandurbar,
Dist. Nandurbar.
- 5] Mr. Mukesh S/o. Madhukar Thakare,
Age: 32 years, Occu: Labour,
R/o.: Chinchpada Bhilati, Tq. Nandurbar,
Dist. Nandurbar.
- 6] Mr. Ambalal s/o. Jaising Thakare,
Age: 32 years, Occu: Labour,
R/o. Chinchpada Bhilati, Tq. Nandurbar,
Dist. Nandurbar.

...PETITIONERS

VERSUS

- 1] The Divisional Commissioner,
Nashik Division, Nashik.
- 2] The Superintendent of Police,
Nandurbar, District Nandurbar.
- 3] The Sub Divisional Police Officer,
Nandurbar Sub Division, Nandurbar,
Dist. Nandurbar.
- 4] The Police Inspector,
Nandurbar City Police Station, Nandurbar,
Dist. Nandurbar.

...RESPONDENTS

Mr. P. D. Bachate, a/w Mr. Rahul R. Raghuwanshi, Advocates for
Petitioners.

Smt. Chaitali Chaudhari-Kutti, APP for Respondent Nos. 1 to 4-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 23rd JULY 2025.
PRONOUNCED ON : 26th AUGUST 2025.

ORDER :-

1. Heard Mr. Bachate, the learned Advocate for the Petitioners and
Smt. Chaudhari-Kutti, the learned APP for Respondent-State. This
petition is heard finally at the stage of admission, with the consent of the
parties, for final disposal.

2. The petitioners are aggrieved by an order dated 22nd October 2024, passed by the learned Divisional Commissioner, Nashik Division, Nashik, in Appeal No. 103 of 2024, thereby dismissing the appeal filed by the petitioners under Section 60 of the Maharashtra Police Act, 1951.

3. The appeal was filed challenging an order dated 8th May 2024 passed by the Superintendent of Police, Nandurbar, thereby externing the present petitioners from Nandurbar district for a period of two years from the date of order.

4. The facts, in short, as stated in the petition are that the present petitioners are residents of Nandurbar. The petitioner No.1 is in private business. Petitioner Nos.2 and 4 to 6 are the labourers. The petitioner No.3 is a student. Some of the offences have been registered against the petitioners. The details and status of the offences registered against the present petitioners are as below:

Sr. No.	Police Station	C.R. No. and Offences	Petitioner No.	Current Status
1.	Upanagar Police	C.R. No.153/2016, U/sec. 143, 332, 336, 147, 148, 149 of IPC	Petitioner No.1.	Pending.

	Station, Nandurbar.	and Sec. 37(1)(3), 135 of the M. P Act.		
2.	Nandurbar City Police Station	C.R. No.150/2018, U/sec. 353, 143, 323, 149 of IPC and Sec. 37(1)(3) and 135 of M. P Act.	Petitioner No.1.	Pending
3.	Nandurbar City Police Station	C.R. 186/2018, U/Sec. 143, 146, 149, 353, 323, 504 and 506 of IPC.	Petitioner No.1.	Pending
4.	Nandurbar City Police Station	C.R. No.225/2018, U/sec.427, 435, 504 and 506 r/w 34 of IPC.	Petitioner No.6	Pending
5.	Nandurbar City Police Station	C.R. No. 224/2018, U/sec. 143, 146, 149, 353, 323, 504, 506 of IPC and Sec. 37(1)(3) r/w 135 of M. P Act.	Petitioner No.4 and 6.	Pending
6.	Nandurbar City Police Station	C. R. No.100/2019, U/sec. 142 of M. P Act.	Petitioner No.1	Pending.
7.	Nandurbar City Police Station	C. R. No.381/2019, U/sec. 353 of IPC.	Petitioner No.6.	Pending
8.	Nandurbar City Police Station	C.R. No. 1029/2020 U/sec. 268, 269, 270 r/w 34 of IPC and 37, (1)(3) of M. P Act.	Petitioner No.3.	Pending
9.	Nandurbar City Police Station	C.R. No. 213/2020 U/sec. 160 of IPC.	Petitioner No.4.	Pending.
10	Nandurbar City Police Station	C.R. No.734/2021, U/Sec. 353, 336, 337, 143, 145, 147, 149, 268, 269, 270, 427, of IPC and 37(1)(3), 135 of M. P Act.	Petitioner Nos. 1, 2, 4, 5 & 6.	Pending.

11	Nandurbar City Police Station	C.R. No.735/2021, U/sec. 143, 147, 149, 435, 336, 427 of IPC and 37(1)(3), 135 of M. P. Act.	Petitioner Nos. 1, 3, 4 & 5.	Pending.
12	Nandurbar Taluka Police Station	C.R. No.152/2022, U/sec. 395, 397 of IPC.	Petitioner No.6.	Pending.
13	Nandurbar Taluka Police Station	C.R. No.313/2022, U/sec. 394, 341 r/w 34 of IPC and Sec. 3, 25 of Arms Act.	Petitioner Nos. 1 to 5.	Pending.
14	Nandurbar City Police Station	C.R. No.497/2022, U/sec. 324, 143 of IPC.	Petitioner Nos. 2 to 6.	Pending.
15	Nandurbar City Police Station	C.R. No.310/2023, U/sec. 353, 143, 149, 342 of IPC and Sec. 37(1)(3), 135 of M. P. Act.	Petitioner Nos. 1 to 3.	Pending.
16	Nandurbar City Police Station	C.R. No.320/2023, U/sec. 353, 143, 147, 149, 504 of IPC and Sec. 37(1)(3), 135 of M. P. Act.	Petitioner Nos. 1 to 4.	Pending.
17	Nandurbar City Police Station	C.R. No.404/2023, U/sec. 307, 395, 353, 332, 323, 504, 506 of IPC.	Petitioner Nos. 1, 3, 4.	Pending.
18	Nandurbar City Police Station	C.R. No. 19/2023, U/sec. 395, 341, 506 of IPC.	---	Pending.

5. Till now, no conviction has been recorded in any of above cases. However, on the basis of this, the respondent No.2, the Superintendent

of Police issued a show cause notice dated 31st March 2024 as to why no action be taken under Section 55 of the Maharashtra Police Act. The petitioners replied the notice by communication dated 3rd May 2024. It is mainly contended that there is no sufficient material to initiate action of externment against the petitioners. The offences are not of a serious nature. They have not been convicted in any of the trial.

6. After hearing the petitioners, the respondent No.2 passed an order dated 8th May 2025 externing the petitioners from Nandurbar district for two years. The said order came to be challenged before the learned Divisional Commissioner, Nashik Division, Nashik, who confirmed the said order. Thus, the petitioners are before this Court.

7. Learned Advocate for the petitioners vehemently argued that earlier there was an order of externment taken place against the present petitioners. The petitioners had challenged the said externment order by filing a Writ Petition No. 642 of 2022 and other connected writ petitions. This Court, by its judgment and order dated 3rd October 2022, was pleased to quash and set aside the action. While taking action on the

earlier occasion, several offences which were not already considered. This Court by considering that position, was pleased to observe that there was no sufficient material to take action of externment. Some of the offences have again been considered by the authorities while taking present action, which ought not have been done.

8. In support of his submissions, the learned Advocate for the petitioners relied upon the following judgments:

*(i) Rahmat Khan @ Rammu Bismillah Vs. Deputy Commissioner of Police*¹;

*(ii) Praful Bhausahab Yadav Vs. K. K. Pathak and Ors.*²;

*(iii) Deepak Laxman Dongre Vs. The state of Maharashtra and Ors.*³;

*(iv) Sumit s/o. Ramkrishna Maraskolhe Vs. Deputy Commissioner of Police Zone-1 Nagpur and anr.*⁴

9. Learned APP, on the other hand, vehemently opposed the petition. She submits that, in the present case, it is seen that all the petitioners are involved in various offences, clearly showing that they are involved

1 (2021) 8 SCC 362

2 2013 SCC OnLine Bom 188

3 [2022] 8 SCR 35

4 2019 (2) Mh.L.J. 745

as a gang. The authorities have properly conducted the inquiry and passed the order. The learned Divisional Commissioner has rightly considered all the aspects and has confirmed the order passed by the Respondent No.2, Superintendent of Police. No interference is required. There are 7 offences pending against most the petitioners. She further submits that seven secret statements were recorded. In these statements, it is stated that due to fear of the petitioners, members of general public are not coming forward to speak against them. There is a terror like situation in Nandurbar city. The petitioners are seasoned criminal, and therefore, action is taken. While taking action, even the earlier action, that was taken was also considered. There is a clear application of mind on the part of the authorities. The principles of natural justice have been followed. The offences would show that those are of dacoity, theft and stone-throwing on the Government vehicles. There are chapter cases registered where action under Sections 107 and 110 of Cr.P.C. is taken. Though earlier action was taken of externment, the behaviour of the petitioners is not improved. There are 18 offences considered, out of which 9 offences are of personal nature and 9 offences are committed by

the petitioners in a gang. She, therefore, submits that the petition deserves to be dismissed.

10. In the case of ***Rahmat Khan*** (supra), the Hon'ble Apex Court found that the allegations of demand for ransom by threat were concocted. The colour is given of intense gravity. The Court found the allegations to be doubtful, and on that basis, it was observed that action of externment was unwarranted on the facts of that case.

11. In the case of ***Praful Bhausaheb Yadav*** (supra), the Division Bench of this Court considered the scope of judicial review in the matters of externment. In the case of ***Deepak s/o. Laxman Dongre*** (supra), the Hon'ble Apex Court held that the action of externment is an extraordinary measure, which should not normally resorted to unless a case is clearly made out for taking such action. The order of externment has the effect of depriving a citizen of his fundamental right of free movement. Such action prevents the person even from staying in his own house. In the said case, it was argued that the offences were registered at the instance of political person with *mala-fide*. The Court

found substance in the contention of the person against whom action was taken and in that view, action was set aside.

12. In the case of ***Sumit s/o. Ramkrishna Maraskolhe*** (supra), The Full Bench of this Court was called upon to decide the following questions:

(1) Where the activities of externee are confined to specific area of the local limits of the jurisdiction of a police station in a district but the order of externment extends to the entire district, rural areas and even beyond the district or districts (irrespective of the fact that it is contiguous or not) whether such an order needs to show the existence of material – (a) that a larger or additional area so chosen or selected is intimately connected with the actual area of the activities of the externee due to improved or common means of transport and communication system, (b) that the facts or the material warranting externment from a larger or additional area or neighbouring area exist, and (c) that the externing authority has applied its mind to the factors (a) and (b) while passing an order of externment?

(2) Whether it is necessary to state in the show cause notice the details of in-camera statements recorded by the externing authority to reach to the satisfaction that the witnesses are not coming forward to give evidence or depose in public against the proposed externee due to fear of alarm, danger or harm to their person or property?

13. Thus, the main question is when the activities are confined to specific area of the local limits of the police station in a district, whether the order of externment can extend to the entire district, rural areas and

even beyond the district? The second question whether it is necessary to state in the show cause notice the details of in-camera statements recorded by the externing authority to reach to the satisfaction that the witnesses are not coming forward to give evidence or depose in public against the externee?

14. The Court concluded that the externment order directing a person from much larger area than the one of his illegal activities must be based upon some material which provides an objective criteria sufficient to the authority for reaching a subjective satisfaction about the action. It was also concluded that the order of externment need not necessarily refer to the details of the material considered by it so as to show independently that larger or additional area chosen by it is intimately connected with the actual area. It is further concluded that the application of mind to the material present on record by the authority passing the externment order is necessary but any reflection of application of mind in the externment order in a specific manner is not necessary. It is seen that if the order discloses that the subjective satisfaction has been reached by considering the material available on record whereby legitimate

inference can be drawn. There are some other judgments pointed out.

15. In the present case, it is admitted fact that there are 18 offences pending, out of which 9 offences are of the nature showing that those are committed in a gang. Looking to the nature of the offences, it is seen that most of the offences are bodily offences. On many times, action under Sections 107 and 110 is required to be taken. Earlier action taken against them in the year 2023 was set aside by this Court in Criminal Writ Petition. The authorities have also considered that aspect as well. In spite of such, it is observed that the petitioners still continued with such activities. It is shown that out of 11 offences, 8 offences were also already considered in the earlier action. Some of the offences are again considered in the impugned order.

16. The offences which are now considered in addition to earlier are C.R. No. 320/2023 under Section 353, 143, 147, 149, 504 of IPC and Sec. 37(1)(3), 135 of Maharashtra Police Act. C.R. No. 404/2023 for offences under Sections 307, 395, 353, 332, 323, 504, 506 of IPC. C.R. No. 19/2023, 395, 341, 506 of IPC. It is seen that the offences, which

were not considered when the earlier order was passed, are serious in nature. One of them under Section 307 of IPC. The offences which were considered were also shows that those were also under Sections 353, 143, 147 etc. Still the earlier action was dropped by this Court. Though there are 18 offences shown against the petitioners, all those are shown to be pending and no conviction has been recorded as on today.

17. In addition to above material, there are secret statements now considered by the authorities. This Court has considered those statements. Those statements show that because of the threats of the present petitioners, the members of general public are not coming forward to give statement openly against these persons. After dropping of the earlier proceeding, still the activities of the petitioners continued. As discussed by the authorities, some of the members of gang are allegedly not found on their addresses and notices could be served upon them. The secret statements, however, are identical. This court finds that there is some substance in the arguments of the learned APP. However, no much grave case is made out to take drastic action against the petitioners. No offence is yet to be proved against them. Those offences

are pending since 2018. This Court finds that material is short for taking action. This court also considered the judgments cited before this Court. This Court finds that the material appears to be vague. This Court thus finds merit in the writ petition.

18. Considering the overall material, this Court finds that when the earlier action was dropped fresh material considered was not sufficient to take action of externment. This Court is, therefore, inclined to allow the writ petition. Hence, the following order:

ORDER

Criminal Writ Petition stands allowed in terms of prayer clause (B).

[KISHORE C. SANT, J.]