



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1634 OF 2025

Ajay Laxman Garud
Age: 28 Years, Occu: Labour
R/o. Gendalal Mill, Tq. Dist- Jalgaon

..PETITIONER

VERSUS

1. State of Maharashtra
Through the Secretary, Home Department,
Mantralaya, Mumbai.
2. The Divisional Commissioner,
Nashik Division, Nashik
3. The Commissioner of Police,
Jalgaon.
4. The Asst. Commissioner of Police,
Jalgaon City, Dist. Jalgaon
5. The Deputy Commissioner of Police,
Jalgaon City, Dist. Jalgaon
6. The Police Inspector,
Jalgaon City Police Station,
Tq. & Dist. Jalgaon

..RESPONDENTS

....
Ms Priyanka P. Shinde, Advocate h/f Mr. A.K. Bhosle, Advocate for the
petitioner
Mr. P.M. Kulkarni, A.G.P for respondents
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CORAM : ABHAY J. MANTRI, J.
DATE : 23rd DECEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally
with the consent of learned counsel for the parties at the admission stage.

2. The petitioner, who has been externed by invoking the provisions of Section 56(1) of the Maharashtra Police Act, 1951 (for short, '***the Act***'), has assailed the legality and validity of the externment order dated 03rd April, 2025 passed by the Respondent No.5 – Deputy Commissioner of Police, Jalgaon and confirmed by the Respondent No.3 – Divisional Commissioner, Jalgaon vide order dated 29th August, 2025, has preferred this petition.

3. Learned counsel for the petitioner has challenged the impugned orders on the following grounds:-

(I) The offences at Sr. Nos. 1, 2, and 4 in the table of cases are of the years 2018 and 2020, and therefore, those are stale offences.

(II) The respondents have not explained the inordinate delay (more than six months) in the proposal for externment dated 04th October, 2024, which itself indicates that the same is contrary to Section 55 of the Act and thereby violative of Clause (d) of Article 19(1) of the Constitution of India.

(III) No action is taken against the other members of the gang. Therefore, initiation of the action against the petitioner alone is not permissible in law, particularly when collective criminal activity is alleged against them, with at least some of them named as accused along with the petitioner.

Therefore, she submitted that the passing of the impugned orders is unjust and unreasonable and liable to be set aside. She relied on the following judgments:

- (I) *Narayan Sitaram Pawar & Anr. Vs. Superintendent of Police, Buldhana & Ors., Cri. W.P. No. 219 of 2023, Bombay High Court, Nagpur Bench* (Para. 13, 15 and 18)
- (II) *Pratik Vs. Divisional Commissioner, Amravati Division & Ors., 2023 (3) Mh. L.J. (Cri.) 284* (Para. 18)
- (III) *Harikesh @ Guddu Madan Kattilwar Vs. Deputy Police Commissioner, Amravati & Ors., Cri. W.P. No. 908 of 2022, Bombay High Court, Nagpur Bench* (Para. 12 & 13)

As such, she urged that the petition be allowed and that the impugned orders be quashed and set aside.

4. On the other hand, learned A.P.P. vehemently opposed the petition, contending that four serious offences have been registered against the petitioner, and after considering the petitioner's record, the learned authorities have passed the orders. He also drew my attention to paragraph nos. 6.9 of the order dated 29th August, 2025, passed by the Respondent No.3 – Divisional Commissioner, Jalgaon and submitted that considering all the material on record and after subjective satisfaction, Respondent No.5 - Deputy Commissioner of Police, Jalgaon, has rightly passed the externment order, and also passed the order of confirmation. Similarly, he submitted that the concerned authorities recorded the in-camera statements of two witnesses; therefore, he urged that the impugned orders were passed just and proper, that no interference is required, and that the petition be dismissed.

5. Having heard learned counsel for the petitioner and learned A.P.P as well as gone through the impugned orders and record, at the outset, I want to reproduce the table of the cases registered against the petitioner, as under:-

Sr.No.	Crime No.	Police Station	Sections
1	3021 / 2018	Jalgaon City	188, 290 and 291 of I.P.C.
2	49 / 2020	Jalgaon City	395 of I.P.C.
3	27 / 2024	Jalgaon City	384, 385, 387, 363, 342, 323, 504, 506 r/w 34 of I.P.C.
4	58 / 2020	Jalgaon Taluka	324, 341, 323, 504 and 506 r/w 34 of I.P.C.

Sr. No.	Crime No.	Police Station	Sections
A	146 / 2018	Chapter Case.	107 of Cr. P C.

6. A bare perusal of the above table indicates that the cases at Sr. Nos. 1, 2, and 4 are of the year 2018 and 2020, which are stale offences in the sense that there is no live link between the said offences and the necessity of passing of the order of externment in the year 2025. Similarly, the offence at Sr. No. 3 was registered on 18th January, 2024, and the first notice was issued on 18th October, 2024, i.e., after a period of nine months. Therefore, as per the observations made in the case of *Narayan Sitaram Pawar* (supra) in absence of explanation for the inordinate delay for filing the proposal of externment and passing, the impugned orders accordingly suffers from total arbitrariness and amounts to denial of the petitioner's fundamental rights guaranteed under Article 19(1) of the Constitution of India; hence, the order

is in direct contravention of the petitioner's fundamental rights, freedom of movement guaranteed under Article 19(1)(d) of the Constitution of India.

7. Apart from that, it is the settled position of law that mere registration of the number of offences by itself does not sustain an externment under Section 56(1)(b) of the Act. The offences must either involve an element of force or violence, or fall under Chapters XII, XVI, or XVII of the Indian Penal Code. In addition, the externing authority must record satisfaction that the witnesses are not willing to come forward to give evidence in public against the externee by reason of apprehension on their part as regards the safety of their person or property. However, in the present case, the in-camera witnesses have stated that the incident occurred between friends and that a crime was registered against them. They further stated that there is no apprehension on their part regarding the safety of their person or property; therefore, the said statements are hardly of any assistance to the authorities in support of the order.

8. It also appears that while passing the orders, the authorities have observed in paragraph no. 5, more particularly in 5.2, that the petitioner, along with his associates or gang members, has committed the offences. However, those are more individualistic in nature than collective and do not show that these persons have come together and are engaging in criminal acts as a group. This material certainly does not make out any case against the petitioner as a member or a chief of a gang or body of persons, and

therefore, there is no material mentioned in the order which is relevant for determining as to whether or not the petitioner is leader or member of a gang or body of persons, and therefore, it seems that first requirement of Section 55 of the Act is not satisfied in this case and on this ground alone the order passed by the externing authority and also the confirmation of the order by the appellate authority deserves to be quashed and set aside.

9. Besides, it appears that the order of externment was passed on 03rd April, 2025, for a period of one year and out of that, the petitioner has already suffered more than eight months.

10. It also appears from the submission of learned A.P.P. that the municipal corporation election is scheduled to be held on 15th January, 2026. Therefore, he submitted that if the petitioner is permitted to enter the city of Jalgaon, he will certainly exert pressure and threaten persons to vote for a particular candidate. Therefore, he urged that if the Court is of the opinion that the order of externment is illegal, then, until 14th January, 2026, the petitioner shall not be permitted to enter the city of Jalgaon.

11. Having considered the above discussion and considering the law laid down in the above-cited judgments, in my view, the orders passed by the authority and confirmed by the appellate authority are unreasonable and improper. Therefore, the same cannot be sustained in the eyes of the law. Also, the said orders are contrary to Section 55 of the Act and, therefore, violative of Clause (d) of Article 19(1) of the Constitution of India and, thus,

cannot be sustained in law. It does not appear from the impugned orders that the authorities have recorded their subjective satisfaction to pass the order of externment. On that ground, also, the order cannot be sustained in the eyes of the law.

12. As a result, the petition is allowed. The order of externment dated 03rd April, 2025, passed by the Respondent No. 5 – Deputy Commissioner of Police, Jalgaon, and the confirmation order dated 29th August, 2025, passed by the Respondent No. 3 – Divisional Commissioner, Jalgaon, are hereby quashed and set aside.

13. Needless to clarify that to avoid further complications and in light of the ensuing election of the corporation, the petitioner shall not enter into Jalgaon city till 14th January, 2026. As a sequel, it would be appropriate to give effect to this order from 15th January, 2026. The rule is made absolute in the above terms. No costs.

(ABHAY J. MANTRI, J.)

SSD