



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1349 OF 2025

Pawan Pandurang Karwar,
Age-30 years, Occu-Agril & Business,
R/o. Kerwadi, Tq. Palam,
Dist. Parbhani

...PETITIONER

VERSUS

1. The State of Maharashtra
through its Principal Secretary,
Home Department, Mantralaya,
Mumbai
2. The Superintendent of Police, Parbhani
Tq. & Dist. Parbhani
3. The Sub-Divisional Officer-cum-
Sub-Divisional Magistrate,
Sub-Division Gangakhed,
Dist. Parbhani
4. The Police Inspector
Police Station, Palam
Tq. Palam, Dist. Parbhani
5. Divisional Commissioner,
Chhatrapati Sambhajanagar

...RESPONDENTS

Mr. Mahesh P. Kale, Advocate for the petitioner
Mr. K. S. Hoke Patil, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 09th DECEMBER, 2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally, with the consent of both parties, at the admission stage.
2. The petitioner is assailing an externment order dated 07-04-2025 issued by the Sub-Divisional Magistrate, Gangakhed, in Case No. 2025/M.P.A./Externment/CR06-596, and the appellate authority confirmed the same, i.e. the Divisional Commissioner, Chh. Sambhajanagar by order dated 28-08-2025 passed in Appeal No.2025/G.A./D-1/POL-1/Externment/CR-94 and thereby externing the petitioner from Parbhani District for a period of one year from the date of the order.
3. The learned advocate for the petitioner submitted that the learned Sub-Divisional Magistrate, as well as the learned Divisional Commissioner, have not applied their mind while passing the externment order against the petitioner, and without recording their subjective satisfaction, passed the impugned orders. He further argued that while passing the order the learned Sub-Divisional Magistrate has considered the offences for the year 2019 to 2022 which are stale offences in the sense that there is no live link between the said offences and the necessity of passing an order of externment and the offences at Sr. No.7 and 8 are Petty offences, which were registered against the petitioner when he has taken a part in the

procession which was organized by the Maratha and Dhangar community for claiming their reservation rights and therefore, based on these two offences, it would not be appropriate to pass the externment order against the petitioner. Accordingly, he urged that the said orders be set aside.

4. To buttress his submissions, he has relied on the judgment in Limbaji @ Vijay S/o. Govind Ghobale Vs State of Maharashtra and others in Cri. WP/944/2019 dated 22-11-2019 and submitted that in view of the mandate in the said judgment, the impugned orders are liable to be quashed and set aside.

5. As against the learned APP vehemently resisted the petition and submitted that eight offences have been registered against the petitioner under various crimes and therefore, considering those offences, the learned Sub-Divisional Magistrate has passed the externment order and said order is just and proper. He further drew my attention to sections 56(1)(a)(b) & (2) of the Maharashtra Police Act (for short, '**The Act**') and submitted that the learned authority can pass the order as impugned herein against the petitioner. The petitioner was involved in the offence against the female and in the robbery of mines and minerals in the area of the Police Stations at Palam and Gangakhed; therefore, the learned authority has rightly passed the order, and no interference is required

in the writ jurisdiction.

6. Having considered the rival contention of the parties and gone through the record, I would like to reproduce the chart of the offences which were mentioned in the notice as well as the order as under:

Sr. No.	Police Station	Crime No.	Sections	Status
1.	Palam	20/2019	379,353,34 IPC 48, 78	Pending
2.	Palam	51/2020	379,436,447,504,34 IPC with 3(2) SC ST (Prevention of Atrocities) Act	Pending
3.	Palam	76/2021	379,353,34 of IPC 1860 with 48(7)(8) of Mines and Minerals Act	Pending
4.	Gangakhed	119/2022	324,323,504, 34 IPC, 1860	Pending
5.	Daithana	213/2022	324,323,504,506, 34 of the IPC	Pending
6.	Palam	2025/2022	452,354,324,323,504,143,147,148,149 of the IPC	Pending
7.	Palam	51/2024	341,188 of the मपोकाह	Pending
8.	Palam	309/2024	126(2), 189(2) of the IPC	Under investigation

7. A bare perusal of the chart shows that the offences at Sr. No. 1 to 6 are registered against the petitioner for the years 2019 to 2022. Only offences at Sr. Nos. 7 & 8 have been registered against the petitioner in 2024. Thereafter, the notice dated 13-12-2024 was issued to the petitioner, and pursuant to that notice, the impugned externment order was passed on 07-04-2025.

8. It further appears from the FIR registered against the petitioner in the year 2024, produced by the learned APP, that the petitioner was a part of a procession which supported the people of

the Maratha community in seeking reservation rights, and the people of the Dhangar community initiated another procession for protecting their reservation rights. Therefore, both offences were registered against the petitioner and others. It is not the case that the said offences cause alarm, danger, or harm to any person or property; therefore, in my view, it would not be proper to issue an externment order against the petitioner on the basis of the said offences.

9. Apart from this, mere registration of the number of offences by itself does not sustain an externment under section 56 (1) of the Act. The offences must either involve elements of force or violence, or fall within Chapters XII, XVI, and XVII of the Indian Penal Code. In addition, the externing authority must record satisfaction that the witnesses are unwilling to come forward to give evidence in public against the externee by reason of apprehension on their part regarding the safety of their person or property. It further reveals that the offences at Sr. Nos. 1 to 6 relied upon are of 2019 to 2022, which are stale offences in the sense that there is no live link between the said offences and the necessity of passing an order of externment in the year 2025. It is undisputed that one of the crimes, i.e., at Sr. No. 8, is under investigation and cannot be taken into consideration, as it depends on the outcome of the investigation. The investigating agency may or may not refer the accused to trial. Therefore, it would

not be appropriate to issue the order on the basis of the offence, as the police investigation is ongoing. It is pertinent to note that the order of externment is not an ordinary measure, and it must be resorted to sparingly and in extraordinary circumstances. It was the duty of the Constitutional Court to test the said order within the well-settled parameters.

10. Perused the impugned order. Though the learned Sub-Divisional Magistrate, Gangakhed, after considering the eight offences, has observed that, having considered the nature of the offences, it seems that the petitioner has committed serious crimes against persons and property. He has no fear of the law and order; therefore, he has complied with the order. In fact, the learned Sub-Divisional Magistrate must record its subjective satisfaction of the existence of one of the grounds as incorporated in section 56(1) of the Act and based on objective material placed before it and not write a judgment containing the elaborate reasons for invoking the powers under Section 56 of the Act. Similarly, the competent authority must record its satisfaction that the witnesses are unwilling to come forward to give evidence against the persons proposed, rather than merely observing that only one witness has come forward to give evidence.

11. Having considered the above discussion and facts of the case, it reveals that the learned Sub-Divisional Magistrate failed to record its subjective satisfaction of the existence of one of the grounds as contemplated under Section 56 of the Act. But the impugned order was passed. It has also been taken into consideration that, by passing the impugned order, the learned Sub-Divisional Magistrate has infringed the petitioner's fundamental right guaranteed under Article 19(1)(d) of the Constitution of India.

12. Thus, it appears that the order shows that the non-application of the mind and smacks of arbitrariness. Therefore, it becomes vulnerable. The order cannot be sustained in the eyes of the law.

13. As a result, the petition is allowed in terms of the prayer clause – (C). The externment order dated 07-04-2025 issued by the Sub-Divisional Magistrate, Gangakhed, in Case No. 2025/M.PA./Externment/CR06-596 and the order dated 28-08-2025 passed by the learned Divisional Commissioner, Chh. Sambhajinagar in Appeal No.2025/G.A./D-1/POL-1/Externment/CR-94 are quashed and set aside.

14. Rule is made absolute in the above terms. No order as to costs.

[ABHAY J. MANTRI, J.]