

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4463 OF 2025

1. Santosh Dattatraya Bhingare,
Age-57 years, Occu-Labour,
2. Ritik Santosh Bhingare,
Age-32 years, Occu-Labour,
3. Yash Santosh Bhingare,
Age-21 years, Occu-Labour,
4. Tushar Shankar Bhingare,
Age-22 years, Occu-Labour,

All R/o. 73, East Mangalwar Peth,
Solapur, Dist. Solapur

...Petitioners

VERSUS

1. State of Maharashtra
2. The Divisional Commissioner,
Pune Division, Pune
3. The Deputy Commissioner of Police (Zone)
Solapur City

...Respondents

.....
Mr. Sajid Ahmad Bagwan, Advocate for the Petitioner
Mr. Pankaj Deokar, APP for the Respondents-State
.....

CORAM : ABHAY J. MANTRI, J.

DATE : 24th SEPTEMBER, 2026

Digitally
signed by
SHAILAJA
SHRIKANT
HALKUDE
Date:
2026.09.29
12:14:10
+0530

ORAL JUDGMENT :

1. **Rule.** Rule is made returnable forthwith and heard finally with the consent of the learned Advocate for the Petitioners as well as the learned A.P.P.

2. The Petitioners are assailing an externment order dated 19-08-2025 passed by Respondent No.2 - Divisional Commissioner, Pune in Externment Appeal/SR/EA/255/2024 and order dated 24.10.2024 in externment proceedings No.47/ 2024-2743 passed by Respondent No.3- Deputy Commissioner of Police (Zone), Solapur, by which Petitioners have been externed from Solapur District and Dharashiv District for a period of two years.

3. The learned Advocate for the Petitioners vehemently contended that the Deputy Commissioner as well as the Divisional Commissioner have not applied their mind while passing the externment orders against the Petitioners and, without recording their subjective satisfaction, passed the impugned orders.

4. He further argued that while passing the orders, the learned Authorities have erred in considering the offences for the year 2020 and 2021, which are stale offences in the sense that there is no live link between the said offences and the necessity of passing of externment orders and that they have initiated the proceedings and passed the impugned orders only based on the offence of the year

2024. Therefore, he urged that the said orders cannot be sustained in the eyes of law and are liable to be set aside. To buttress his submission, he has relied on the judgment of this Court in Ahammad Mainuddin Shaikh Vs The State of Maharashtra and another¹ and drew my attention to para 13 and 14 of the said decision.

5. *Per Contra*, the learned APP strongly opposed the Petition, contending that the Petitioners are habitual offenders and three offences have been registered against them. Due to the Petitioners' terror, nobody will come forward to lodge a complaint against them. Therefore, the orders passed by the Authorities are just and proper; as such, he urged for dismissing the Petition.

6. Having considered the rival contentions of the parties and gone through the record, it would be appropriate to reproduce the chart of the offences based on which the impugned order was passed, as under:

संतोष भिंगारे				
अ. क्र.	पोलीस ठाणे	गु.र.नं.कलम	सदयस्थीती	प्रतिबंधक कारवाई
1.	फौजदार चावडी	393/2024 भादविक 326,324,504,506,143,147, 149 सह मो. वाहन अधि. कलम 37,135 सह आर्म ॲक्ट 4/25	तपासावर	...

1 (2013) 4 Bom CR (Cri) 559

2.	जोडभावी पेठ	750/2020 भादविक 323,504,143,148,149	न्यायप्रविष्ट	दि.31.07.2020 रोजी चा.के.क. 57/2020 प्रमाणे सिआरपीसी कलम 107 प्रमाणे कारवाई
3.	जोडभावी पेठ	136/2021 भादविक 307,326,324,323,504,141,143, 147,148,149, सह आर्म अॅक्ट 4/25 म.पो.अधि. कलम 135 सह आपत्ती व्यवस्थापन कायदा कलम 51 ब	न्यायप्रविष्ट	दि.07.09.2021 रोजी चा.क.50/2021 प्रमाणे सिआरपीसी कलम 110 प्रमाणे कारवाई
ऋतिक संतोष भिंगारे				
1.	फौजदार चावडी	393/2024 भादविक 326,324,504,506,143, 147,149 सह मो. वाहन अधि. कलम 37,135 सह आर्म अॅक्ट 4/25	तपासावर	...
2.	जोडभावी पेठ	750/2020 भादविक 323,504,143,148,149	न्यायप्रविष्ट	दि.31.07.2020 रोजी चॅके.क. 57/2020 प्रमाणे सिआरपीसी कलम 107 प्रमाणे कारवाई
3.	जोडभावी पेठ	136/2021 भादविक 307,326,324,323,504,141,143, 147,148,149, सह आर्म अॅक्ट 4/25 म.पो.अधि. कलम 135 सह आपत्ती व्यवस्थापन कायदा कलम 51 ब	न्यायप्रविष्ट	दि.07.09.2021 रोजी चॅ. केस. क. 49/2021 प्रमाणे सिआरपीसी कलम 110 प्रमाणे कारवाई
यश संतोष भिंगारे				
1.	फौजदार चावडी	393/2024 भादविक 326,324,504,506,143,147,149 सह मो. वाहन अधि. कलम 37,135 सह आर्म अॅक्ट 4/25	तपासावर	...
2.	जोडभावी पेठ	750/2020 भादविक 323,504,143,148,149	न्यायप्रविष्ट	...

तुषार संतोष भिंगारे				
1.	फौजदार चावडी	393/2024 भादविक 326,324,504,506,143,147,149 सह मो. वाहन अधि. कलम 37,135 सह आर्म ॲक्ट 4/25	तपासावर	...
2.	जोडभावी पेठ	750/2020 भादविक 323,504,143,148,149	न्यायप्रविष्ट	चॅ. केस नं. 57/2020 सीआरपीसी 107 दि. 07.09.2021

7. Bare perusal of the chart shows that offences at Serial Nos. 2 and 3 are of the year 2020 and 2021. Those are stale offences, and in fact, there is no live link between the said offences and the passing of the impugned orders; there is no necessity of passing the impugned orders. The only offence registered in 2024 was for the offences punishable under Sections 326, 324, 504, 506, 143, 147, 149 of the IPC, Sections 37 and 135 of the Motor Vehicles Act and section 4/25 of the Arms Act. The authorities initiated proceedings against them and passed the impugned orders.

8. It is trite law that mere registration of the number of offences by itself does not sustain an externment under Section 56(1) of the Maharashtra Police Act (hereinafter referred to as '*the Act*'). The offences must either involve force or violence or fall within Chapters XII, XVI, and XVII of the IPC. In addition, the externing authority must record satisfaction that the witnesses are unwilling to come forward to give evidence in public against the externee because

they apprehend for themselves or their property. In Ahammad (supra), in paras 13 and 14, this Court has observed as under:

“13. So, it is clear that whatever criminal cases are there against the alleged gang members, they are more individualistic in nature than collective and do not show that these persons have got together and are indulging in criminal acts as a group. This material certainly does not make out any case against the petitioner as a member or chief of a gang or body of persons. There is no other material mentioned in the order which is relevant for determining as to whether or not the petitioner is a leader or member of a gang or body of persons. Therefore, the very first requirement of Section 55 is not satisfied in this case and on this ground alone the order passed by the externing authority and also the order of the appellate authority confirming it, deserve to be quashed and set aside.

14. The illegality so committed by both authorities does not stop here. The externing authority, while passing the final order which has been confirmed by the appellate authority, has directed externment only against the petitioner and not the remaining 5 members of his alleged gang, for a period of one year from the district of Kolhapur. Such discrimination between members of the gang is not permissible in law, particularly when collective criminal activity is alleged on their part by arraigning at least some of them as accused along with the petitioner. Section 55 of the Act contemplates a collective action against the gang or body of persons and, therefore, the final direction that is required to be issued in terms of this section would also have to be necessarily against each of the members of the gang and not against one or a few of them on a selective basis. So, on this ground also, we find that the impugned orders are absolutely illegal and cannot be sustained in law.”

9. Perused the impugned orders. Though the learned Deputy Commissioner of Police (Zone) Solapur City and the Divisional Commissioner, Pune Division, Pune, have observed that, having considered the nature of the offences, it seems that the Petitioners have committed serious crimes against the person and property. They have no fear of the law and order. In fact, the Authorities must record their subjective satisfaction that one of the grounds under Section 56 (1) of the Act exists, based on the objective material placed before them, and not write a judgment containing elaborate reasons for invoking the powers under Section 56 of the Act. It is observed that the witnesses are unwilling to come forward to give evidence against the Petitioners, rather than merely observing that two witnesses came forward to give evidence, but they have not lodged any report against them. Therefore, prima facie, I do not find substance in the contention of learned APP in that regard.

10. Having considered the above discussion and facts of the case as well as law laid down by this Court in Ahammad (supra), it reveals that the Authorities failed to record their subjective satisfaction of the existence of one of the grounds as contemplated under Section 56 of the Act. But the impugned orders were passed without recording their subjective satisfaction.

11. Thus, it appears that the orders show non-application of mind and arbitrariness. Therefore, the orders become vulnerable. The orders cannot be sustained in the eyes of law.

12. As a result, **the Petition deserves to be allowed and accordingly allowed.** The impugned orders dated 19-08-2025 passed by Respondent No. 2-Divisional Commissioner, Pune in Externment Appeal/SR/EA/255/2024 and order dated 24.10.2024 in externment proceedings No.47/ 2024-2743 passed by Respondent No. 3- Deputy Commissioner of Police (Zone), Solapur are hereby quashed and set aside.

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

14. **The Petition is disposed of.**

[ABHAY J. MANTRI, J.]