



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5029 OF 2025**

Suraj Srikrishna Singh	...	Petitioner
versus		
The Dy. Commissioner of Police and Ors.	...	Respondents

Mr. K.S.Labana, for Petitioner.
Ms. Rashmi Tendulkar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 21 JANUARY 2026

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. By this petition under Article 227 of the Constitution of India, the Petitioner takes exception to an order dated 20 January 2025 passed by the Divisional Commissioner, Konkan Bhavan, Mumbai in Appeal No.137 of 2024, whereby the appeal preferred by the Petitioner under Section 60 of the Maharashtra Police Act, 1951, against an order of externment passed by the Deputy Commissioner of Police, Zone-I, Pimpri Chinchwad, by invoking the power under Section 56(1)(a) and (b) of the Act, 1951, came to be dismissed.
3. Background facts necessary for the determination of this Petition can be summerized as under :
 - 3.1 Alleging that the acts and movements of the Petitioner were causing or

calculated to cause alarm, danger or harm to the person or property and that there were reasonable grounds to believe that the Petitioner was engaged or was about to be engaged in the commission of offences involving force or violence or offences punishable under Chapters XII, XVI and XVII of the Indian Penal Code, 1860 and the witnesses were not willing to come forward to give evidence against the Petitioner on account of the reign of terror created by the Petitioner within the limits of Ulhasnagar Police Station, a notice was served upon the Petitioner on 14 November 2022 under Section 59 of the Maharashtra Police Act, 1951, calling upon the Petitioner to show cause as to why he be not externed from the limits of Thane, Mumbai Suburban and Raigad Districts for a term of two years.

3.2 The Petitioner filed a reply thereto. By an order dated 8 May 2024, the Competent Authority directed the externment of the petitioner from the limits of Thane, Mumbai City, Mumbai Suburban Districts and Karjat and Panvel Talukas of Raigad District, for a term of two years.

3.3 Being aggrieved, the Petitioner preferred an appeal before the Divisional Commissioner. By the impugned order dated 20 January 2025, the Appeal came to be dismissed affirming the order of externment. Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

4. I have heard Mr. Labana, learned Counsel for the Petitioner, and Mrs. Tendulkar, learned APP for the State, at some length. With the assistance of

the learned Counsel for the parties, I have also perused the material on record.

5. Mr. Labana, learned Counsel for the Petitioner, submitted that the impugned order of externment as well as the order passed by the Appellate Authority suffer from the vice of non-application of mind; the authorities have unjustifiably ignored that in two of the crimes arrayed against the Petitioner, he has been duly acquitted. Moreover, since the alleged offending acts of the Petitioner were confined to the limits of Ulhasnagar Police Station, the Petitioner has been externed from the limits of Mumbai City, Mumbai Suburban and Thane Districts and Panvel and Karjat Talukas of Raigad District, without ascribing any reason. The order of externment, thus, constitutes an unreasonable restraint on the fundamental freedom of the Petitioner guaranteed under the Constitution. At any rate, the impugned order is required to be quashed and set aside as there is no reason as to why the Competent Authority externed the Petitioner for the full term of two years, urged Mr. Labana.

6. Per contra, Mrs. Tendulkar, learned APP, made an endeavour to support the impugned order. It was submitted that the Competent Authority has correctly exercised the power vested in him to extern the Petitioner.

7. The Petitioner was ordered to be externed by invoking the provisions contained in Section 56(1)(a) and (b) of the Act, 1951. The measure of

externment, by its very nature, is extra-ordinary. It has the effect of forced displacement from the home and surroundings. Often it affects the livelihood of the person ordered to be externed, and the dependants on him. Thus, there must exist justifiable ground to sustain an order of externment. The order of externment, therefore, must be strictly within the bounds of the statutory provisions. Under clause (a) of sub-Section (1) of Section 56, the externing authority must be satisfied on the basis of the objective material that the movements or acts of the person to be externed are causing or calculated to cause alarm, danger or harm to person or property. Under clause (b), there must be an objective material on the strength of which the externing authority must record subjective satisfaction that there are reasonable grounds for believing that the externee is engaged or about to be engaged in the commission of offences involving force or violence.

8. Mere registration of a number of offences by itself does not sustain an externment under Section 56(1)(b) of the Act. The offences must either involve elements of force or violence or fall under Chapters XII, XVI and 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. In effect, to sustain an action of externment under sub-clause (b), the offences the externee has

engaged in must be under one of the Chapters enumerated therein and that the acts or conduct of the externee are such that the witnesses are terrified and dissuaded from giving evidence against the externee in public fearing safety of their person or property.

9. The Competent Authority, it seems, has taken into account the following crimes registered against the Petitioner :

TABLE 'A' :

Sr. No.	Police Station	C.R.No.	Sections	Court Case No.	Current status
1	Ulhasnagar	179 of 2022	325, 504 of IPC	986 of 2022	Subjudice
2	Kalyan, Thane Gramin	153 of 2021	326, 324, 452, 435, 143, 147, 148, 149, 336, 504, 506, 427 of IPC and Section 4(25) of Arms Act.	788 of 2021	Subjudice
3	Ulhasnagar	195 of 2021	325, 324, 323, 504, 506 read with Section 34 of IPC	-	Under investigation

TABLE 'B' :

Sr. No.	Police Station	C.R.No.	Sections	Court Case No.	Current status
1	Ulhasnagar	183 of 2020	324, 323, 504, 34, 188, 269, 270, 271 of IPC and 144(1), 144(3) of CrPC.	238 of 2021	Subjudice
2	Ulhasnagar	144 of 2017 2021	326, 324, 143, 144, 147, 148,	199 of 2018	Subjudice

			149, 504 34 of IPC and Section 4(25) of Arms Act.		
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10. In addition, the Competent Authority has banked upon the statements of two confidential witnesses to form an opinion that, on account of the terror created by the Petitioner, the witnesses were not coming forward to give evidence in public, as they feared for safety of their person or property.

11. It seems that, out of the three crimes in the aforesaid Table 'A' taken into account by the Competent Authority, in C.R.No.153 of 2021 registered with Kalyan Police station, for the offences punishable under Sections 326, 324, 452, 435, 143, 147, 148, 149, 336, 504, 506, 427 of IPC and Section 4(25) of Arms Act, the Petitioner was acquitted by the learned Magistrate, Kalyan on 3 August 2024, after the order of externment, but before the impugned order was passed in the Appeal.

12. Secondly, in C.R.No.183 of 2020 at Sr. No.1 in Table B taken into account by the Competent Authority to show the past conduct of the Petitioner, he was acquitted couple of days prior to the order of externment i.e. 6 May 2024. In fact, a submission was canvassed before the Appellate Authority that in C.R.No.183 of 2020, the Petitioner was duly acquitted. As the order of acquittal in the prosecution arising out of C.R.No.183 of 2020 was passed couple of days prior to the externment order, some allowance is

required to be given for construing the said crime as then subjudice.

13. Nonetheless, the impugned order suffers from a fundamental flaw. The Competent Authority has simply externed the Petitioner for the full term of two years. Though, there is some consideration and reasoning on the aspect as to why the Competent Authority considered it appropriate to extern the Petitioner from an expansive area, while the offences were primarily registered at Ulhasnagar Police Station, barring C.R.No.153 of 2021 registered at Kalyan Police Station, in the nature of availability of the fast means of communication and transport, etc., yet the order of externment singularly lacks in reason qua the term of externment.

14. Under the provisions of Section 58 of the Act, 1951, a person can be externed for a full term of two years. However, the Competent Authority must indicate reasons as to why it considered it appropriate to extern the externee for a full term of two years as the order of externment impinges upon the fundamental freedom guaranteed under the Constitution.

15. A profitable reference, in this context, can be made to a judgment of the Supreme Court in the case of **Deepak s/o Laxman Dongre V/s. State of Maharashtra and Ors.**¹, wherein the Supreme Court, after adverting to the provisions of Section 58 of the Act, 1951, underscored the necessity of arriving at the subjective satisfaction regarding the term of externment also on

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the basis of objective material. It was ruled that, where the externee is externed for a maximum permissible period of two years, without recording the subjective satisfaction regarding the necessity of the externment for a full term, it would amount to imposing unreasonable restrictions on the fundamental rights guaranteed under clause (d) of Article 19(1) of the Constitution of India. The observations in paragraph No.16 of the said judgment are instructive, and, hence, extracted below :

“16. On a plain reading of Section 58, it is apparent that while passing an order under Section 56, the competent authority must mention the area or District or Districts in respect of which the order has been made. Moreover, the competent authority is required to specify the period for which the restriction will remain in force. The maximum period provided for is of two years. Therefore, an application of mind on the part of the competent authority is required for deciding the duration of the restraint order under Section 56. On the basis of objective assessment of the material on record, the authority has to record its subjective satisfaction that the restriction should be imposed for a specific period. When the competent authority passes an order for the maximum permissible period of two years, the order of extrnment must disclose an application of mind by the competent authority and the order must record its subjective satisfaction about the necessity of passing an order of externment for the maximum period of two years which is based on material on record. Careful perusal of the impugned order of externment dated 15 December 2020

shows that it does not disclose any application of mind on this aspect. It does not record the subjective satisfaction of the respondent No.2 on the basis of material on record that the order of externment should be for the maximum period of two years. If the order of externment for the maximum permissible period of two years is passed without recording subjective satisfaction regarding the necessity of extending the order of externment to the maximum permissible period, it will amount to imposing unreasonable restrictions on the fundamental right guaranteed under clause (d) of Article 19(1) of the Constitution of India.” (emphasis supplied)

16. In view of the aforesaid exposition of law, as the impugned order is bereft of any reason on the point of externment for the full term of two years, the same cannot be legally sustained. The Writ Petition, thus, deserves to be allowed.

17. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The impugned order dated 20 January 2025 as well as the order dated 8 May 2024 passed by the Competent Authority externing the Petitioner stand quashed and set aside.
- (iii) Rule made absolute in the aforesaid terms.
- (iv) No costs.

(N.J.JAMADAR, J.)