



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.6802 OF 2025**

Firoz @ Ba Dilavar Shaikh	...	Petitioner
versus		
State of Maharashtra and Ors.	...	Respondents

Ms. Shivani Kondekar with Mr. Satyavrat Joshi, for Petitioner.
Mr. A.R.Metkari, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 22 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 11 November 2025 passed by the Divisional Commissioner, Pune, in Appeal No.85 of 2025, 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)(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 A notice under Section 59 of the Act, 1951, was served upon the

Petitioner calling upon him to show cause as to why he be not externed by invoking the power under Section 56(1)(b) of the Act, 1951. A reference was made to the six crimes registered against the Petitioner at Bhosari Police Station, during the period 2016 to 2024, and the prohibitory actions taken against the Petitioner in the past.

3.2 After considering the reply, by an order dated 28 March 2025, the Deputy Commissioner, Zone I, directed the externment of the Petitioner from the limits of Pimpri Chinchwad Police Commissionerate, Pune City Police Commissionerate and Pune Rural Police limits, for a term of 24 months. It was, inter alia, observed that there were reasonable grounds for believing 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 12, 16 and 17 of the Indian Penal Code, 1860 and the witnesses were not willing to come forward to give evidence in public against the Petitioner, as they feared for the safety of their person or property. A reference was made to in-camera statements of two confidential witnesses.

3.3 Being aggrieved, the Petitioner preferred an appeal before the Divisional Commissioner. By the impugned judgment and order dated 11 November 2025, the Divisional Commissioner dismissed the appeal, finding no infirmity in the order of externment.

3.4 Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

4. I have heard Ms. Shivani Kondekar, learned Counsel for the Petitioner, and Mr. A.R.Metkari, 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. Ms. Kondekar, learned Counsel for the Petitioner, submitted that, in the prosecution arising out of one of the crimes i.e. C.R.No.441 of 2016, the Petitioner has already been acquitted on 16 March 2021, and, yet, the said crime was taken into account in ordering the externment of the Petitioner. Secondly, Ms. Kondekar would urge, another crime i.e. C.R.No.458 of 2024 was registered against the Petitioner while the Petitioner was in judicial custody in connection with C.R.No.425 of 2024. Whereas, the other three crimes were the subject matter of a prior show cause notice dated 2 September 2021. Thus, the impugned order of externment suffers from clear non-application of mind and is based on material which could not have been considered.

6. In opposition to this, Mr. Metkari, learned APP, supported the impugned order. It was submitted that the cumulative assessment of the material on record would indicate that the Petitioner had created a reign of terror within the limits of Bhosari Police Station. The persistent violent acts committed by the Petitioner justified an inference that the Petitioner was engaged or was about to be engaged in the commission of the offences involving force or

violence or the offences punishable under Chapters XII, XVI and XVII of the Penal Code, 1860. In addition, the statements of the confidential witnesses justify the opinion formed by the Competent Authority that the witnesses were not willing to come forward to give evidence in public against the Petitioner as they feared for their safety.

7. The measure of externment under the provisions contained in Section 56(1)(a) and (b) of the Act, 1951, 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 grounds 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 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. From the perusal of the impugned order, it becomes evident that the Competent Authority had taken into account the following offences registered against the Petitioner :

Sr. No.	Police Station	C.R.No.	Sections	Registered on	Current status
1	Bhosari	458 of 2024	232 of BNS	25-07-2024	Under Investigation
2	Bhosari	425 of 2024	8(c), 20(b), 29(ii) (a) of NDPS Act, 1895	04-06-2023	Under Investigation
3	Bhosari	352 of 2021	Sections 143, 144, 147, 148, 149, 323, 504, 506 of IPC and Section 4(25) of Indian Arms Act, and Sections 37(1) with 135 of		Subjudice

			the Maharashtra Police Act, 1951 .		
4	Bhosari	668 of 2018	307, 143, 144, 147, 148, 149, 452, 504, 506, of IPC, 4(25) of the Indian Arms Act and Section 37(1) and 135 of the Maharashtra Police Act, 1951.		Subjudice.
5	Bhosari	263 of 2017	307, 143, 147, 148, 504 and 506 of IPC		Subjustice
6	Bhosari	441 of 2016	324, 323, 504, 506 read with 34 of IPC		Subjudice

10. A copy of the judgment in Regular Criminal Case No.82 of 2017 arising out of C.R.No.441 of 2016, delivered by the learned Judicial Magistrate, First Class, Khadki, Pune, indicates that the Petitioner and other co-accused were acquitted of the said offences on 16 March 2021. Yet, in the aforesaid table, at Sr. No.6, the proceeding arising out of C.R.No.441 of 2016 was shown to be subjudice. Thus, there is substance in the submission on behalf of the Petitioner that the Competent Authority ought not to have taken into account the crime in which the Petitioner was duly acquitted.

11. Secondly, it is imperative to note that, the crimes ar Sr. Nos.1 and 2, namely, C.R.No.458 of 2024 for the offences punishable under Section 232 of BNS, 2023 and C.R.No.425 of 2024 for the offences punishable under

Sections 20(b)(ii)(a) and 29 of the NDPS Act, 1985, also could not have been lawfully taken into account, especially to sustain the order of externment under Section 56(1)(b) of the Police Act, 1951.

12. Section 232 of BNS 2023 provides for punishment for threatening any person to give false evidence. Under the Penal Code, 1860, Section 195A provided for punishment for such offence. Section 195A was subsumed in Chapter IX of the Penal Code, 1860, which dealt with 'False evidence and offences against public justice'. Thus, Section 323 of BNS 2023, which corresponds with Section 195A of the Penal Code, 1860, does not fall within the ambit of the class of the offences covered by Section 56(1)(b) of the Act, 1951.

13. Likewise, the offences punishable under the NDPS Act, 1985, are beyond the purview of the offences covered by Section 56(1)(b) of the Act, 1951. Resultantly, the consideration of the crimes at Sr. Nos.1 and 2 to sustain the order of externment, was wholly unjustifiable.

14. Lastly, the submission on behalf of the Petitioner that, rest three crimes i.e. C.R.No.352 of 2021, 668 of 2018 and 263 of 2017 (Sr. Nos.3 to 5 in the afore extracted table) were considered by the Competent Authority while issuing show cause notice in the year 2021, is substantiated by the copy of the show cause notice dated 2 September 2021. It appears that the said notice to show cause as to why action should not be taken against the

Petitioner and others was issued under Section 55 of the Act, 1951. Moreover, the live-link between the offences registered during the period 2017 to 2021 and the measure of externment appears to have been snapped.

15. The conspectus of aforesaid consideration is that, the order of externment took into account irrelevant material, and, thus, suffered from the vice of non-application of mind. Resultantly, the order of externment as well as the impugned order cannot be legally sustained. The Writ Petition, thus, deserves to be allowed.

16. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed.
- (ii) The impugned order dated 11 November 2025 as well as the order dated 28 March 2025 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.)