



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.6833 OF 2025**

Pradip @ Gotya Arun Padwal	...	Petitioner
versus		
The State of Maharashtra and Ors.	...	Respondents

Mr. Shailesh Kharat with Mr. Onkar Chaudhari, Mr. Vishwajeet Nimbalkar, for
Petitioner.

Mr. P.P.Malshe, APP for State.

PSI Mulla, and Mr. Nighot,HC, Malunghe MIDC Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 12 MARCH 2026

JUDGMENT :

1. Rule. Rule made returnable forthwith and with the consent of the learned Counsel for the parties, heard finally.
2. This Petition under Article 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023) calls in question the legality and correctness of the order dated 11 November 2025 passed by the Appellate Authority in Appeal No.46 of 2025, whereby the said appeal preferred by the Petitioner against the order of externment passed by the Deputy Commissioner of Police, Zone III, Pimpri Chinchwad purportedly under Section 56(1)(b) of the Maharashtra Police Act, 1951, came to be dismissed by affirming the said order of externment.
3. A notice under Section 59 of the Maharashtra Police Act, 1951, was

served on the Petitioner calling upon him to show cause why action under Section 56 of the Act, 1951, be not taken against the Petitioner in view of the registration of the three crimes against the Petitioner at Chakan and Mhalunge Police Stations, during the period 2021 to 2024 and the prohibitory action taken against the Petitioner. It was, inter alia, alleged that there were reasonable grounds for believing that such person was engaged or was about to be engaged in the commission of an offence punishable under Chapters XVI or XVII of Indian Penal Code, 1860 and the witnesses were not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property.

4. Post inquiry, by an order dated 14 December 2024, the Deputy Commissioner of Police, Zone III, Pimpri Chinchwad, externed the Petitioner by invoking the power under Section 56(1)(b) of the Act, from the limits of Pune District for a term of two years.

5. Being aggrieved, the Petitioner preferred an appeal before the Divisional Commissioner, Pune Division. By the impugned order, the Appellate Authority dismissed the appeal concurring with the view of the Competent Authority. Being further aggrieved, the Petitioner has invoked the writ jurisdiction.

6. Mr. Kharat, learned Counsel for the Petitioner, submitted that, the impugned order of externment is legally unsustainable, as there was no

material on the basis of which the Competent Authority could form an opinion that the witnesses were not coming forward to give evidence against the Petitioner in public. It was submitted that the order of externment suffers from the vice of non-application of mind as a stale offence registered in the year 2021 was taken into account.

7. Secondly, the externment order suffers from the vice of excessiveness on both the counts; the area of externment and duration of externment. As the externment order puts unreasonable restrictions on the fundamental freedom of the Petitioner, it deserve to be quashed and set aside.

8. Mr. Malshe, learned APP, made an endeavour to support the impugned order.

9. The Petitioner was ordered to be externed by invoking the provisions contained in Section 56(1)(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. The order of externment, therefore, must be strictly within the bounds of the statutory provisions. Under clause (b) of Section 56(1), 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. 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.

10. 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.

11. In the case at hand, it appears that, the following two crimes have been registered against the Petitioner :

Sr. No.	Police Station	C.R.No.	Sections	Date of Institution	Remarks
1	Chakan	960 of 2021	395, 397, 387, 341 of IPC, Sections 3(2) and 4(25) of Arms Act, and 37(1)(3) and 135 of Maharashtra Police Act, Sections 3 Criminal Law Amendment Act and 3(1)(ii), 3(4) of MCOCA.	09 August 2021	Subjudice

2	Mhalunge MIDC	696 of 2024	308(4), 352, 351(2) of BNS 2023	16 October 2024	Under Investigation
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12. However, apart from the registration of the aforesaid crimes, the Competent Authority has not considered any other material on the basis of which the objective findings could have been recorded that the witnesses were terrified and dissuaded from giving evidence against the externee in public fearing safety of their person or property. It does not appear that the Competent Authority had recorded the statements of confidential witnesses, on the basis of which such an inference could be legitimately drawn. In the absence of such objective material, mere registration of the offences falling under Chapters XVI and XVII of the Penal Code, 1860, by itself, was not sufficient to justify the measure of externment under clause (b) of Section 56(1) of the Act, 1951.

13. The submission on behalf of the Petitioner in regard to the term of the externment order also carries substance. Under Section 58 of the Act, 1951, the period of operation of the order passed under Section 56 of the Act, 1951, shall in no case exceed the period of two years from the date on which the externee either removes himself or is removed from the area from which he is ordered to be externed. Section 58, thus, empowers the Competent Authority to specify the period for which the externment order may remain in operation, while providing the maximum term of two years. The Competent

Authority is, therefore, expected to delve into the question of the term for which the order of externment, in the circumstances of the given case, shall be operative. The externment for the maximum term of two years cannot be construed as a default period of externment. Resultantly, if the Competent Authority externs a person for a full term of two years, the order of externment ought to spell out the reasons for which the Competent Authority considered it necessary to extern the externnee for a full term of two years, and not a lesser period.

14. In the case of **Deepak s/o Laxman Dongre V/s. State of Maharashtra and Ors.**¹, 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 the basis of objective material. It was ruled that, where the externnee 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

1 (2023) 14 SCC 707

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 externment 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)

15. Reverting to the facts of the case, it would suffice to note that the Competent Authority did not bestow any consideration in regard to the term of the externment. Why the Petitioner was required to be externed for the full term, was not at all adverted to by the Competent Authority. It seems that the Competent Authority was simply not alive to the necessity of bestowing consideration in regard to the term for which the Petitioner be externed to achieve the object of externment. The order of externment, thus, singularly lacks reasons to support the externment for the full term. Thus, on both the counts, the order of externment suffers from the legal infirmities. Resultantly, the impugned order as well as the order of externment deserve to be quashed and set aside.

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 of externment dated 14 February 2024 stand quashed and set aside.
- (iii) Rule made absolute in the aforesaid terms.

(N.J.JAMADAR, J.)