

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

CRIMINAL WRIT PETITION NO.1354 OF 2015

Nana @ Budha S/o. Uttam Koli

.. Petitioner

Versus

The State of Maharashtra and ors.

..Respondent

Mr. Satej S. Jadhav, Advocate for the petitioner

Mr. S.D. Kaldate, APP for the respondent/ State

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.**

DATED : 30.10.2015

P.C. :-

1. As an exceptional case we are entertaining this writ petition mainly because the petitioner did not get opportunity to present his case before the Sub-Divisional Magistrate, Erandol, (for short "S.D.M.") who has passed order under Section 56-B of Bombay Police Act for externment from Jalgaon for a period of one year. Usually notice was given under Section 56(1) of Bombay Police Act on 09.02.2015 to the petitioner. Thereafter he appeared before the S.D.M. on 16.06.2015. He sought time to submit his reply and he was given 23.01.2015 as next date. But on that date he did not appear before the S.D.M. and thereafter the impugned order was passed.

2. No doubt the petitioner was active during 2010

when he committed several offences but thereafter for next almost four years no incident took place in which the petitioner was arrested etc. An incident of quarrel, criminal tress-pass and causing hurt occurred in 2014 i.e. on 12.08.2014. It appears to us that because of this recent incident the Police thought petitioner deserves externment etc. The petitioner deserves an opportunity of submitting reply as well as to make oral submissions. Therefore, we are inclined to set aside this impugned order dated 05.10.2015 and remand the case back to the S.D.M. on following conditions.

ORDER

i] The petitioner shall remain present before S.D.M. on 09.11.2015.

ii] On or before 17.11.2015 the petitioner should deposit Rs.50,000/- with S.D.M. as cash security as well as his reply. The learned S.D.M. shall then decide the case on or before 24.11.2015. If the amount as directed above is not deposited by the petitioner, the present petition would stand dismiss without further order.

3. In view of this writ petition stands disposed of accordingly.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]