

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

CRIMINAL WRIT PETITION NO. 413 OF 2015

Ravi @ Ravindra Bhimrao Manjarekar .. Petitioner
v/s.
The State of Maharashtra & Ors. ..Respondents

Mr. Rahul S. Kadam for the petitioner
Mr. K.V. Saste, APP for the respondent State

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 25th FEBRUARY, 2015.**

P.C.

1. Heard Mr. Kadam, learned Counsel for the petitioner and Mr. Saste, learned APP for the respondent State. By this petition, under Article 226 of the Constitution of India, the petitioner is challenging the orders passed under Section 56 of the Bombay Police Act externing the petitioner from Pune City and Pune District for the period of two years.

2. Mr. Kadam, learned Counsel for the petitioner in order to support the prayer in the petition, made two fold arguments, firstly, that the impugned order of externing the petitioner is

excessive and secondly, there is no subjective satisfaction that the witnesses are not coming forward to give evidence against the petitioner by reason of apprehension as regards safety of their life and property. Mr. Kadam relied upon the decisions of the Division Bench in the case of *Sanket Valkrushna Jadhav Vs. State of Maharashtra, 2013 All MR, (Cri.) 3843*, *Yashwant Damodar Patil Vs. Hemant Karkare, Dy. Commissioner of Police, Thane, 1989, Mh.L.J. 1111* and order dated 3rd December, 2013 in the case of *Vijay D. Dhewale Vs. Dy. Commissioner of Police, Zone IV, Pune & Ors.*, passed in Writ Petition No.2129 of 2010 (Coram: A.S.Oka & S.C. Gupte, JJ).

3. Mr. Saste, learned APP opposed the petition. He submitted that the impugned order externing the petitioner from Pune City and Pune District cannot be quashed and set aside in the light of the transport facility is available today. He submitted that as a matter of fact, the subjective satisfaction that the witnesses are not coming forward to give evidence against the petitioner is recorded

in the Notice as well as in the Order passed under Section 56 of the Bombay Police Act. He submitted that looking into the nature of the offences alleged against the petitioner, the impugned order is just and proper and does not require any interference.

4. Having considered the rival submission and having gone through the impugned orders and ratio of the decision of the Division Bench cited above, we are not inclined to interfere in the impugned order.

5. Respondent no.2 – Deputy Commissioner of Police externed the petitioner for the period of 2 years from Pune city and Pune District and this order is confirmed by the Appellate Authority namely respondent no.3. The petitioner specifically raised the point of excessive punishment before the Appellate Authority. The Appellate Authority in paragraph 4 of the impugned order, considered the petitioner's submissions and on relying upon the decision in the case of *Imtiyaz Afzal Hussain Shaikh Vs. The*

Asst. Commissioner of Police, Wanavadi Division, Pune & Ors., 2014 All MR (Cri) 443 has held that that the externment order is not excessive. So far the decision of the Division Bench in *Sanket B. Jadhav* (supra) is concerned, is distinguishable in as much as there were no reasons given in this matter. So far the present case is concerned, the petitioner's grievance in this regard was considered and reasons are given to support the impugned order.

6. So far the submissions of subjective satisfaction of the Externing Authority in Notice under Section 59 to the effect that witnesses are not coming forward to give evidence against the petitioner is concerned, the Notice discloses that the distinct inquiry was made against the petitioner and it was found that because of apprehension of the petitioner, the witnesses are not ready to depose against the petitioner. It further discloses that the Externing Authority has recorded the statement of the witnesses, only after giving assurance that they will not be called for deposition before any Authority. In the light of this, the

decision in the case of *Yashwant D. Patil* and *Vijay D. Dhewale* (*Supra*) are distinguishable and cannot be made applicable to the facts and circumstances of the present case.

7. Mr. Kadam, learned Counsel for the petitioner lastly submitted that the period of externment may be reduced from two years to one year. The petitioner is alleged to have committed four distinct offences including an offence under Section 354-A and Section 11 and 12 of the Protection of Children from Sexual Offences Act, 2012. We are, therefore, not inclined to accept this request. In the facts and circumstances of the case, we do not find any justification to interfere in the impugned order.

8. Accordingly, the Writ Petition is disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)