

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

CRIMINAL WRIT PETITION NO.317 OF 2016

Kunal s/o. Subhash Raut ..Petitioner

Vs.

The State of Maharashtra
and anr. ..Respondents

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Mr.Mohsin Khan, Advocate for petitioner

Mr.M.M.Nerlikar, A.P.P for respondents

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : OCTOBER 20, 2016**

PER COURT :

Heard the learned Counsel appearing for the petitioner and the learned A.P.P. appearing for the respondents. With their able assistance, perused the pleadings in the petition, the ground taken therein, annexures, the order dated 25.11.2014 passed by respondent no.1 so also the order dated 05.11.2015 passed by respondent no.2 – the appellate authority. We have also perused the reply filed on behalf of the respondents.

2. According to the learned Counsel for the petitioner, out the five offences mentioned in the show-cause notice, Crime No.3026 of 2011 registered with Chawni Police Station, Aurangabad, is under the political influence and in the Crime No.359 of 2015 registered with Kranti Chowk Police Station, Aurangabad, "B" Summary report has been filed by the police. He submits that in Crime No.59 of 2014 registered with Chawni Police Station, Aurangabad, the name of the petitioner is not mentioned in the F.I.R. He further submits that there is no proper application of mind by the respondents/authorities while passing the externment order against the petitioner. Though the offences are not registered in the City Chowk Police Station, Aurangabad, respondent no.2 – the appellate authority observed that offences have been registered against the petitioner in Chawni Police Station, Aurangabad and even in Amravati Police Station. He submits that the impugned order

is excessive inasmuch as all the offences registered against the petitioner are only in Chawni Police Station and Kranti Chowk Police Station. He, therefore, submits that the petition may be allowed.

3. The learned A.P.P. appearing for the respondents submits that the amended provisions of Sections 56 and 59 of the Maharashtra Police Act have met with in the present case. The witnesses are not coming forward to depose against the petitioner. The in-camera statements of the three witnesses have been considered by the respondents/ authorities. It is mentioned in the show-cause notice that the three witnesses have stated that people are afraid of deposing against the petitioner. The dates and time recorded by the said witnesses have been mentioned in the show-cause notice. He, therefore, submits that the petition may be rejected.

4. Upon careful perusal of the documents placed on record and in particular, the copy of the show-cause notice, it is mentioned that in the in-camera statements of the three witnesses, they have stated that due to the fear, the witnesses are not coming forward to depose against the petitioner. Apart from it, the alleged activities of the petitioner also have been mentioned. The petitioner has been externed only to the limit of the Aurangabad district since the offences are registered with Chawni Police Station and Kranti Chowk Police Station. Therefore, if the reasons assigned in the impugned order of externment are considered in their entirety, the view taken by respondent no.2 appears to be in consonance with the material collected by the Deputy Commissioner of Police. It is true that the respondents are unable to point out the offences registered against the petitioner either in City Chowk Police Station, Aurangabad and in Amravati Police

Station, however, the observations recorded by respondent no.2 - the appellate authority would not vitiate the impugned order passed by it.

5. In the light of the reasons stated hereinabove, we are not inclined to entertain the claims made by the petitioner in this Writ Petition. Hence, the Writ Petition stands rejected.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

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