

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION (CWP) NO. 913 OF 2016

(Gaurav @ Guddu s/o Babbu Dube vs. Superintendent of Police, Wardha & Anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
DECEMBER 20, 2016.**

Heard Shri Amol M. Jaltare, learned counsel for the petitioner and Shri M.J. Khan, learned APP for the respondents for some time.

2. Common order passed against Anup Ashok Nimbalkar, ordering his externment under Section 55 of the Maharashtra Police Act, 1951, has been set aside by this Court on 03.10.2016 after noticing that Crime No. 28 of 2016 mentioned in the impugned order was not forming part of show cause notice. On the same day in Criminal Writ Petition No. 260 of 2013, the very same order (common order) passed against other alleged gang member Roshan Babbu Dubey was also set aside after noticing that only because of common surname he was presumed to be a member of gang. This Court then found that Crime No. 402 of 2015 appeared to be at the stage of investigation even on 26.02.2016.

3. In present matter, as order is common, that Crime No. 28 of 2016 and the offences from which Anup Ashok Nimbalkar was already acquitted, also finds mention. It is not apparent from the order

whether in those four matters, the present petitioner was also acquitted or not.

4. Section 55 springs into life when the movement or encampment of any gang or body of persons appears to be calculated to cause danger or alarm or reasonable suspicion of unlawful designs entertained by such gang. Thus, mere presence of gang by itself is not sufficient.

5. In this situation, as common order is already quashed and set aside by this Court on 03.10.2016, we quash and set aside the order dated 26.02.2016 to the extent it relates to the petitioner Gaurav @ Guddu Babbu Dube.

6. Criminal Writ Petition is allowed accordingly. No order as to costs.

JUDGE

JUDGE

*GS.