

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

WRIT PETITION NO.3798 OF 2017

Ajij Mehbub Shaikh Petitioner
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.3827 OF 2017**

Firoz Hussain Pathan & Ors. Petitioners
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.3829 OF 2017**

Suresh @ Suraj Yallappa Pawar & Ors. Petitioners
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.3844 OF 2017**

Raju @ Mustafa Bashirkhan Shikalgar
& Anr. Petitioners
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.3845 OF 2017**

Kashimbhai Abbas Mujawar Petitioner
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.3870 OF 2017**

Narayan Dnyanu Harale & Ors.	 Petitioners
versus	
The Divisional Commissioner, Pune & Ors.	... Respondents

**WITH
WRIT PETITION NO.3872 OF 2017**

Balaso @ Babaso Shripal @ Shripati Pawar & Anr.	 Petitioners
versus	
The Divisional Commissioner, Pune & Ors.	... Respondents

**WITH
WRIT PETITION NO.3970 OF 2017**

Adam Moula Pathan & Ors.	 Petitioners
versus	
The Divisional Commissioner, Pune & Ors.	... Respondents

**WITH
WRIT PETITION NO.3981 OF 2017**

Abhaykumar Vidhyadhar Pachore & Ors.	 Petitioners
versus	
The Divisional Commissioner, Pune & Ors.	... Respondents

**WITH
WRIT PETITION NO.3912 OF 2017**

Sudhir Mahadeo Shinde & Ors.	 Petitioners
versus	
The Divisional Commissioner, Pune & Ors.	... Respondents

**WITH
WRIT PETITION NO.3915 OF 2017**

Baban @ Mubarak Ilai Mujawar & Ors. Petitioners
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

**WITH
WRIT PETITION NO.4229 OF 2017**

Taimur Liyakat Shaikh Petitioner
versus
The Divisional Commissioner, Pune & Ors. ... Respondents

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- Mr.U.R. Mankapure, Advocate for the Petitioners.
- Mrs.M.M. Deshmukh, APP for the Respondent/State.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 03rd NOVEMBER, 2017.**

P.C. :

1. The above Petitions challenge the identical orders passed by the Divisional Commissioner, Pune Division, Pune, by which orders, the Divisional Commissioner has refused to grant stay to the externment orders, passed by the externment authority i.e. the Superintendent of Police, Sangli u/s 55 of the Maharashtra Police Act, 1951. It is not necessary to burden this

order with unnecessary details. Suffice it would be to state that the externment orders were based on the offences registered against the Petitioners under the Maharashtra Prevention of Gambling Act, 1887. There are allegations against the Petitioners that they are a part of a group with acts in concert in the matter of illegal gambling, which takes place in the jurisdiction of the Superintendent of Police, Sangli. The gamut of the allegations is against each of the Petitioners and the leader as mentioned in the respective show cause notice. It is not necessary to dilate further on the said aspect in view of the directions, which we propose to issue in the above Petitions.

2. The above Petitions (except Writ Petition Nos.3912/17, 3915/17 and 4229/17) had come up before the Division Bench of this Court (Coram : Smt. Vasanti A. Naik and Riyaz I. Chagla, JJ.). The Division Bench by order dated 06/10/2017 issued notice to the Respondents and made it returnable on 31/10/2017. The Division Bench granted stay of the said externment order till the returnable date, as it had reached a conclusion that prima facie, the Petitioner in each of

the 9 Petitions have an excellent case on merits. There is no dispute about the fact that the said stay granted by the Division Bench is continuing up to this date in the said 9 Petitions.

3. The Writ Petition (bearing WP No.3871/17) filed by four proposed externees from the same Sangli District and against whom the allegations were identical, had come up for admission before another Division Bench of this Court (Coram : Ranjit More & Dr.Shalini Phansalkar-Joshi, JJ.). The said Division Bench by the order dated 11/10/2017 had granted stay of the externment order. The petition had thereafter come up on 31/10/2017. The Division Bench by an order passed on the said day disposed of the Petition, by continuing the stay and directed the appellate authority i.e. the Divisional Commissioner, Pune Division, Pune, to dispose of the Appeal within 15 days.

4. The learned APP Mrs.M.M. Deshmukh states that the Appeal cannot be disposed of in respect of the said four petitioners in view of the fact that the stay was in operation in the other matters i.e. the aforesaid 9 Writ Petitions.

5. Be that as it may. Since a stay is operating in the above 9 Writ Petitions and since another Division Bench of this Court in identical facts, has deemed it appropriate to continue the stay and directed the Appellate authority to decide the Appeal within 15 days, we find no reason to deviate from the said course of action. Therefore we propose to dispose of the aforesaid 9 Writ Petitions in the same terms, as the said Writ Petition No.3871/17 which was disposed of.

6. The learned counsel appearing for the Petitioners in the other Writ Petition Nos.3912/17, 3915/17 and 4229/17 states that he does not press for stay pending the Appeals, but requests that the Appeals involving the said Petitioners be also directed to be disposed of with the Appeals of the 9 Petitioners in the remaining 9 Petitions. Hence, the following directions :

- (1) The interim order, which is in operation in 9 Writ Petitions, i.e. the Writ Petition Nos.3798/17, 3827/17, 3829/17, 3844/17, 3845/17, 3870/17, 3872/17, 3970/17 and 3981/17 would continue to operate till the

disposal of the Appeals by the Divisional Commissioner, Pune Division, Pune.

(2) In view of the statement made by the learned counsel Mr.Mankapure, no stay is granted in so far as the Petitioners in the said 3 Writ Petitions being Nos.3912/17, 3915/17 and 4229/17, are concerned.

(3) The Divisional Commissioner, Pune Division, Pune, is directed to hear and decide the Appeals latest within 3 weeks from the date.

Thus, in view of the fact that by the order dated 31/10/2017, the Appeal of the said 4 Petitioners in the said Writ Petition No.3871/17 was directed to be disposed of within 2 weeks of the date of the receipt of the said order. Hence making the provision for the days spent in receiving the order, the period of 3 weeks would suffice.

(4) The Divisional Commissioner would decide the Appeal on their own merits and in accordance with the law, uninfluenced by the fact that this Court has continued the interim stay in favour of the Petitioners, as also without being influenced by the impugned order.

- (5) Needless to state that the continuance of the stay would not act as a precedent in future matters, that may arise from District Sangli, involving the same allegations.
- (6) Petitioners to appear before the Divisional Commissioner on 07/11/2017 at 11.00 a.m. The Divisional Commissioner thereafter to fix the schedule as per his convenience to dispose of the Appeals, within the outer limit of this Court, by the instant order.
- (7) The Writ Petition Nos.3798/17, 3827/17, 3829/17, 3844/17, 3845/17, 3870/17, 3872/17, 3970/17, 3981/17, 3912/17, 3915/17 and 4229/17 are disposed of in terms of the said directions.
- (8) The parties to act on a copy of the instant order duly authenticated by the Court Sheristedar/Associate.
- (9) Writ Petition No.3738/17 to stand de-tagged and to come up for admission after one week.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)