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

**CRIMINAL WRIT PETITION NO.1692 OF 2020**

Dinesh s/o Babulal Mali

..PETITIONER

VERSUS

The State of Maharashtra & ors.

..RESPONDENTS

Mr S. P. Shah, Advocate h/f Mr D. R. Jethliya, Advocate for  
petitioner;

Mr S. G. Sangle, A.P.P. for respondents

**CORAM : RAVINDRA V. GHUGE  
AND  
B. U. DEBADWAR, JJ.**

**DATE : 22<sup>nd</sup> December, 2020**

**PER COURT:**

1. The petitioner, vide this petition has put forth prayer clauses (A), (B), (C), (D) and (E) as under :

“[A] The Hon’ble High Court may kindly be pleased to issue writ, order or direction in the nature of writ of mandamus or any other appropriate order in the nature of writ and direct the Respondents to transfer the externment proceeding bearing Externment Proposal No.14/2019 pending before Ld. Sub-Divisional Magistrate, Dhule Sub-Division, Dhule, to any other Court of Ld. Sub-Divisional Magistrate and issue incidental and consequential appropriate orders for the said purpose.

[B] Alternatively, the Hon’ble High Court may kindly be pleased to issue writ order or direction in the nature of writ of

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mandamus or any other appropriate order in the nature of writ and direct the respondents to consider, decide and take action on the representation dated 14.12.2020, 15.12.2020 and 17.12.2020 made by the Petitioner to the Respondents.

[C] By issuing appropriate writ, order or direction or any other appropriate order in the nature of writ, the Hon'ble High Court may be pleased to quash and set aside the Order dated 18.12.2020 passed by Ld. Sub-Divisional Magistrate, Dhule in Externment Proposal No.14/2019 thereby Reserving the matter for Order, and to pass the appropriate orders for the said purpose.

[D] By issuing appropriate writ, order or direction or any other appropriate order in the nature of writ, the Hon'ble High Court may be pleased to direct the Ld. Sub-Divisional Magistrate, Dhule to accept the reply of the Petitioner in Externment Proposal No.14/2019; and issue incidental and consequential appropriate orders for the said purpose.

[E] pending hearing and final disposal of this Writ Petition, the Hon'ble High Court may be pleased to stay the further proceedings against the Petitioner in Externment Proposal No.14/2019 pending before Ld. Sub-Divisional Magistrate, Dhule.”

2. Considering the urgency, we had granted circulation of this petition, today. We heard the learned Advocate for the petitioner and the learned Prosecutor on behalf of all the respondents. We granted a pass over to the learned Prosecutor to take instructions.

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3. After the matter was called out at the end of the board, the learned Prosecutor submits that he has had an interaction with Shri. Darade, Sub-Divisional Officer, Dhule Region, Dhule in this matter. He points out from the Roznama placed on record that the hearing in the externment proceeding against the petitioner, bearing No.14 of 2019, had commenced on 28-09-2019. On at least three dates prior to the National lock-down on 23-04-2020, owing to Covid-19 Pandemic, the petitioner had sought adjournments. After the unlock stage in the entire State of Maharashtra i.e. on 01-12-2020, the petitioner appeared on 11-12-2020 and again sought an adjournment. He appeared on 18-12-2020 and yet again sought an adjournment, contending that he needs two months time. It is in these circumstances that, the proceedings have been closed for passing orders, due to the non-cooperation of the petitioner. However, orders have not been passed as on date, as per the instructions given to the learned Prosecutor.

4. We have considered the extensive submissions of the learned Advocate for the petitioner and have gone through the record available, with his assistance. We do not find any such circumstances, which would convince us that the present Externment Proceeding No.14 of 2019 is required to be transferred from the authority of the SDO, Dhule Sub-Division, Dhule. We, therefore, reject the request for transfer of the proceeding.

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5. Though the contentions of the learned Prosecutor appear to be quite forceful as regards frequent adjournments taken by the petitioner, we find that the order dated 24-07-2018 was passed by the said authority, thereby cancelling the earlier proposal for externment in Externment Case No.1 of 2018, on the condition that the petitioner would be a disciplined citizen and would behave properly and would not indulge in any offence for a period of one year. We are informed by the learned Advocate for the petitioner that the petitioner has not committed any offence in the year that followed the order dated 24-07-2018.

6. It is the strenuous contention of the learned Advocate for the petitioner that the present Externment Case No.14 of 2019 is politically motivated. He draws our attention to the five offences listed in the notice issued to him on 16-07-2019 and submits that Sr.No.5 is the only alleged offence against the petitioner, which is said to have been committed on 11-12-2018, bearing Crime No.21/2018. He, therefore, contends that his earlier offences, Crime Nos.50/2013, 62/2016, 140/2016 and 16/2017, were a part of the hearing in Externment Case No.1 of 2018, which has resulted in the cancellation of the externment proposal.

7. Be that as it may, considering the adjournments that were frequently sought by the petitioner, we are of the view that though this

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petition can be favourably considered to afford an opportunity of hearing to the petitioner in view of Section 59 read with Section 56 of the Maharashtra Police Act, we intend to impose costs on the petitioner, so as to make him realize that the adjournments in such cases cannot be frequently asked for.

8. As such, this petition is partly allowed on the following conditions :-

(a) The petitioner shall deposit an amount of Rs.10,000/- (Rupees Ten Thousand) with the SDO, Dhule, Sub-Division Dhule, by appearing in person before the said authority on 28-12-2020 at 12.00 noon. The said amount shall be transmitted by the SDO to the District Collector, for being utilized for the treatment of Covid-19 patients.

(b) The petitioner is at liberty to engage an Advocate and appear before the said authority in the Externment Proceeding No.14/2019 as directed above, and shall not be granted an adjournment for selection or appointment of an Advocate.

(c) In the event, the petitioner desires to examine the witnesses, in view of Section 59, he shall tender a list of witnesses on 28-12-2020 and shall be cautious in identifying his

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witnesses connected with the matter and if it is found that he intends to enlarge the list of witnesses only to prolong the matter, the SDO Dhule would be at liberty to refuse the leave to examine those witnesses, who seem to be unconnected with the matter.

(d) If the witnesses are to be examined, the witnesses who are permitted shall be examined by following the calendar of one witness per week.

(e) The hearing in the said matter shall be concluded on or before 15-02-2021 and the concerned authority shall deliver it's order on or before 05-03-2021, by taking into account the earlier orders passed and the case law, as may be cited by the petitioner.

9. We make it clear that we have not expressed any opinion with regard to the Externment Proceeding No.14 of 2019.

**(B. U. DEBADWAR, J.)**

**(RAVINDRA V. GHUGE, J.)**

sjk