

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 583 OF 2020

PETITIONER

Salman Khan Salim Khan, aged 28 yrs,
occup.Labourer, R/o Taj Nagar, Amravati, Tq.
And Dist. Amravati.

VERSUS.

RESPONDENTS :-

1. State of Maharashtra, through its Secretary,
Home Department, Mantralaya, Mumbai-32.
2. The Divisional Commissioner, Amravati,
Division, Amravati.
3. The Deputy Police Commissioner, Police Zone-1, Amravati.
4. Assistant Police Commissioner, Gadge Nagar Division, Amravati, Dist.Amravati.

Mr.S.B.Gandhe, counsel for the petitioner.
Mr.S.M.Uke, APP for the respondents.

CORAM : SUNIL B.SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 15.12.2020.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. There are two grounds of challenge raised in this petition. The first ground is that the impugned order does not give any instances because of which the subjective satisfaction has been expressed in the impugned order by the respondent no.3 and the second ground is that the impugned order is omnibus and expansive and illegally externs the petitioner from more area than actually required.

4. As regards the first ground, we are satisfied that there is no substance in it for the reason that now after the judgment of Full Bench of this Court, in the case of *Sumit Ramkrishn Maraskolhe Vs. Deputy Commissioner of Police Zone -I reported in 2019 (2) Mh.L.J 745*, it has become more than clear that what is more important is the presence of the objective material on the basis of which the subjective satisfaction or opinion is reached or recorded by the concerned authority, rather than any specific reference being made to the instances or that

objective material while passing the impugned order. This is the reason why, judgment in the case of *Satish Bhimro Dolse Vs. The Superintendent of Police, Jalna an dors. reported in 2018 ALL MR (Cri.) 2144* would not be of any assistance to the petitioner.

5. On going through the impugned order, we find that the respondent no.3 has indeed considered the material available before him and accordingly, has reached his satisfaction and so no fault can be found with his recording of such satisfaction, which is in consonance with the requirements of section 56(1) (b) of the Maharashtra Police Act.

6. As regards the second ground, we are inclined to accept the same, as having substance in it, for the reason that the impugned order does not consider appropriately as to why such an expansive order of externment is required in the present case, especially when the impugned order itself reveals that the area of criminal activity of the petitioner is confined to the locality situated within the local limits of police Commissionarate, Amravati. The impugned order, of course, states that the

petitioner is likely to indulge in criminal activity in any other area situated anywhere within the local limits of Amravati district (rural). Now, Amravati rural district is a part which comprises not less than 11 Talukas and the farthest Taluka is Dharni which is about 180 kms situated away from Amravati. If an out law like the petitioner is to be externed even from a place like Dharni situated about 180 k.m away from Amravati, there has to be some satisfaction recorded in that regard by the authority and that satisfaction must be on the basis of some objective criteria adopted by the authority. Although, it may not be necessary for the authority to give any instances or make any specific reference to the objective materiel considered by him, it is necessary that there is some reflection in that regard in the order, which would show that appropriate considerations did weigh with the authority while recording the satisfaction. Hence, in fact there is no such satisfaction is recorded in the impugned order and therefore, we find great substance in the second ground raised in this petition by the petitioner.

7. In the result, this petition would have to be allowed

partly and it is partly allowed. The impugned order together with the order of the respondent no.2, which modifies the impugned order, is modified to the extent that now the externment of the petitioner shall be restricted to the area which falls within the local limits of Amravati Police Commissionerate and shall be for the same period as has been stipulated by respondent no.2 .

Rule accordingly.

(AVINASH G. GHAROTE,J.)

(SUNIL B SHUKRE,J.)