

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

CRIMINAL WRIT PETITION NO. 490 OF 2018

Rahmat Khan @ Rammu Bismillah Khan,
Aged about 48 years, Occu. - Auto driver,
R/o. Chaman Chaoni, University Road,
Amravati, Tq. & Dist. Amravati.

.... **PETITIONER**

// **VERSUS** //

Deputy Commissioner of Police,
Zone – 1, Amravati,
Tq. & Dist. Amravati.

.... **RESPONDENT**

Shri P. R. Agrawal, counsel for the petitioner.
Ms. H. N. Jaipurkar, A.P.P. for the respondent.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 29.01.2021.

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

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

3. The first ground of attack raised by learned counsel for the petitioner is that the three offences which have been considered for passing the impugned externment order, which were registered on 12.10.2017, 13.10.2017 and 23.10.2017 (Crime No. 344 of 2017 and Crime No.352 of 2017 of Police Station, Nagpuri Gate and Crime No.501 of 2017 of Police Station, Kotwali) were having no proximate relation with the impugned order passed on 07.05.2018. He submits that there must be a proximate relation between the offences considered and the date on which the impugned order is passed so that the object of the externment order is fulfilled. The second ground raised by the learned counsel for the petitioner is about the cryptic nature of the show cause notice. In this case there have been two show cause notices, first of the date of 03.04.2018/09.04.2018 and the second one of the date of 20.04.2018. He points out that the first show cause notice does not make any reference to existence of statements of confidential witnesses, the second show cause notice does make such a reference but, it does not give any details or even the gist of the material allegations made against the petitioner by the confidential witnesses and therefore, the impugned order is illegal. The learned counsel for the petitioner relied upon the view taken by this Court in the case of *Rahul Alias Pintu Alias Kalu Vs. State of Maharashtra*,

through Secretary, Home Department, Mantralaya, Mumbai and Ors., 2020(2) Mh.LJ (Cri.) 545.

4. Ms Jaipurkar, learned A.PP submits that the impugned order fulfills the parameters laid down by the Full Bench of this Court in the case of *Sumit S/o Ramkrishna Maraskolhe and Ors., Vs. Deputy Commissioner of Police and Ors., 2019 CriLJ 2161.*

5. If the first ground is considered independently, *prima facie* substance would be found but, when it is considered in the light of the statements of the confidential witnesses recorded during the course of the inquiry, one would have to say that the material disclosed by these statements keeps alive the link with the three offences registered against the petitioner in October 2017 and therefore, these offences together with the material available on record present a live-link to the whole case justifying passing of an ex-terminum order against the petitioner. We say so because we have carefully perused the record of the proceedings and considered statements of the confidential witnesses available on the record. They do show that the relevant material is in existence and this material has been considered and the impugned order shows that this material has been appropriately considered by the respondent and therefore, the subjective satisfaction reached by the respondent on the basis of this material together with

the three crimes registered against the petitioner cannot be said to be something which has been arrived at arbitrarily and without application of any mind. So far as subjective satisfaction is concerned, the law is well settled (See the Full Bench Judgment in the case of *Sumit S/o Ramkrishna Maraskolhe and Ors., Vs. Deputy Commissioner of Police and Ors., 2019 CriLJ 2161*) that it is not for this Court to substitute the conclusion based upon subjective satisfaction of the Authority just because another view is possible. All that is necessary is whether there exists any material which is relevant for the purpose for which the externment order is to be passed and whether the authority has applied his mind to such material or not. This has been amply seen in the present case and therefore, we find that there is no substance in the argument that the crimes registered against the petitioner in October 2017 do not have any reasonable link with the externment order and the object that he seeks to achieve in the present case.

6. No doubt, in the first show cause notice there is no mention whatsoever about existence of the statements of the confidential witnesses but, such mention is found in the final show cause notice dated 20.04.2018. This show cause notice makes a reference to the material allegations contained in the confidential witnesses in general terms. These material allegations are to the effect

that the confidential witnesses are not coming forward to depose against the petitioner openly out of fear for the petitioner. In our opinion, this material could be considered to be in the nature of the gist which is nothing but summary of the important allegations made against the petitioner and therefore, it satisfies the criteria laid down in this regard in the case of *Sumit S/o Ramkrishna Maraskolhe and Ors.* (supra) decided by the Full Bench of this Court. In the case of *Rahul Alias Pintu Alias Kalu* (supra), this Court had found that the gist of the material allegations was not mentioned in the show cause notice. But, this finding is only on the facts of that case and therefore, it renders no assistance to the case of the petitioner here. In the result, we find no infirmity with or any illegality in the impugned order. The Writ Petition stands dismissed.

7. At this stage, learned counsel for the petitioner, seeks continuation of the interim stay granted by this Court on 22.05.2018 for a period of three weeks to enable the petitioner to discharge all his family responsibility as mentioned in paragraph - 1 in the petition which prayer has been opposed by the learned A.P.P. Considering the family responsibility of the petitioner, we extend the interim stay for a further period of two weeks from the date of the order after which, the

externment order shall be complied with for the period for which it is directed to be complied with.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)

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