

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

CRIMINAL WRIT PETITION NO. 1015 OF 2019

Sunil Aka Bunt S/o Umakant Kuril,
Aged about 31 years, Occu. - Driver,
Presently Residing at : Near
Hanuman Mandir, Patansaongi,
Tahsil : Saoner, Dist. Nagpur.

.... **PETITIONER**

// VERSUS //

- 1) State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya Mumbai, 32.
- 2) Divisional Commissioner,
Nagpur Division, Nagpur.
- 3) Deputy Commissioner of Police,
Zone II, Nagpur City, Nagpur.
- 4) Assistant Commissioner of Police,
Sitabuldi Division, Nagpur.
- 5) Police Station Officer,
Police Station, Ambazari,
Nagour.

.... **RESPONDENT**

Shri R. R. Vyas, counsel for the petitioner.
Shri A. S. Fulzele, Addl. P.P. for the respondents.

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

DATED : 11th January, 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. What may be challenged in this petition is the order of externment of the petitioner from the local limits of city of Nagpur passed on 27.05.2019 by respondent No.3, which was confirmed by respondent No.2 while dismissing the appeal filed against the original order by the petitioner on 23.10.2019.
4. Learned counsel for the petitioner submits that there is no material available on record which would justify the impugned orders. He further submits that there is no live-link between the three offences considered by the authorities with the impression that the members of public would carry, as inferred by the authorities. He also submits that in any case, the impugned orders are excessive in nature.
5. Shri Fulzele, learned Addl.PP submits that there is enough material available on record and considering the fact that the offences which are registered against the petitioner have been committed every

year from 2016 to 2018, it cannot be said that these offences do not bear any intimate link to the prejudicial activities of the petitioner. He submits with improvement in means of communication and Nagpur City, in particular, having one of the best infrastructures in the State of Maharashtra, it would be very difficulty for the authorities to implement a partial order of externment, if the externment of the petitioner was to be directed from an area such as Ambazari and Sitabuldi only.

6. With the assistance of the learned Addl.PP, we have gone through the record of the proceedings, we find that there are at least two confidential witnesses who have stated in very specific terms about the prejudicial activities of the petitioner. Some incidents have also been referred to therein. We are satisfied from these statements that it is not a case of absence of any material for the authorities to reach a conclusion upon subjective satisfaction of mind. These statements sufficiently indicate that the apprehension expressed by the confidential witnesses cannot be dismissed as untrue. The apprehensions are in the nature of their reservations to approach the law enforcing agencies to air their grievances against petitioner and also to speak against him. They also indicate a generation of fear in the

mind of members of public upon mere sight of the petitioner in their respective localities.

7 Apart from this material, there is also material available in the nature of registration of three crimes against the petitioner. These crimes have numbers such as 65/2016, police Station Ambazari, 83/2017(cctns no.159/17), police station Sitabuldi and 287/2018, police station Ambazari. They have been registered for such offences as under Sections 354(D), 323, 504, 506 read with Section 34, 143, 147, 148, 149, 294, 506(b), 323 of Indian Penal Code read with Sections 3 and 25 of Arms Act and Section 160 of the Indian Penal Code. These offences have been alleged to be committed every year from the year 2016 till 2018. So, commission of one offence after another offence in successive years would not, in our opinion, lead to any snapping of link of the first offence with the last of the offences and ultimately with the alleged prejudicial activities of the petitioner. Rather, they have a potential of creating an impression of fear in the mind of the members of public upon mere sighting of the petitioner.

8. Such being the nature of material available on record against the petitioner, we are satisfied that the authorities have properly applied their mind and reached subjective satisfaction based

upon application of their mind. Once, it is seen that there is no error committed by the authorities in reaching the subjective satisfaction, it would not be open for this Court to examine further as to whether or not the satisfaction recorded is right or wrong.

9. As regards the conclusion about need for externing the petitioner from the limits of the whole city of Nagpur also, we do not find any error therein for the reason that with the increased means of communication and availability of better infrastructure, it would be very difficult for the authorities to implement the order of partial externment from only a particular area of Nagpur. No fault therefore could be seen in the impugned orders passed on this count as well. There is no merit in writ petition. The writ petition stands dismissed.

Rule is discharged.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)