

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 320 OF 2022

Mr. Vijay @ Pappu Bajrang Phadke ...Petitioner

Versus

The State of Maharashtra
& Ors ...Respondents

- Mr. Balwant Salunkhe for the Petitioner.
- Ms. M.H. Mhatre, APP, for the Respondent – State.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

DATE : FEBRUARY 09, 2022.

PER COURT :

1. Not on board. Taken on production board.
2. Heard learned Counsel for the Petitioner.
3. A very limited grievance is raised in the Petition and the Petitioner on the backdrop of that limited grievance prayed for directions to the competent Authority. The Petitioner was subjected to an order of externment passed by the competent Authority on 24th December, 2021. The copy of the same is placed on record at page 30. The competent Authority by exercising its power under Section 56(1) of the

Maharashtra Police Act, 1951, thought it fit to extern the Petitioner from two districts namely, Sangli, and Kolhapur for a period of one year. By the said order the Petitioner immediately approached the competent Authority i.e. Divisional Commissioner, Pune by filing appeal on 07th January, 2022 along with an application for grant of stay to the order impugned in the Appeal. Learned Counsel for the Petitioner submitted that thought the Appeal was immediately filed before the competent Authority till date there is not progress in the Appeal and if the Appeal remained before the competent Authority for indefinite period, the entire attempt of the Petitioner to approach before the Appellate Authority would be frustrated.

4. Learned APP submitted that similar grievance was raised before this Court in some other Petitioner. Our attention was invited to the order of the Division bench of this Court in Writ Petition No. 3535 of 2021 dated 08th October, 2021.

5. Perusal of the order show that some statistical data was submitted before this Court about the pendency of the Appeals before the Appellate

Authority i.e. Divisional Commissioner of Pune. It was submitted before this Court that 51 appeals of year 2020 and 115 appeals of 2021 are pending before the Authority but for the reasons beyond control of the Authority namely, pandemic, the Authority was unable to hear the Appeals and hearing of the Appeals was suspended.

6. On the backdrop of these statistics, the Division bench was not inclined to fix any time limit for disposal of the Appeals and left with the discretion of the Authority. The observations to that effect reads thus:

2. In the light of this statistics placed before us, it is not possible for us to straightaway direct early disposal of the Petitioner's Appeal as such order indirectly will affect those who are waiting without approaching the Court. There could be cases where out of turn disposal may be merited but we leave that to the discretion of the concerned Authority.

7. We see no reason to take a different view than the view adopted by the Division bench in the order

dated 08th October, 2021. Accordingly, we dispose of the Writ Petition and the Authority is directed to dispose of the Appeal considering the order of this Court dated 08th October, 2021 as well as the merit of the Appeal filed by the Petitioner before competent Authority.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)