

Ghuge

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3546 OF 2022

Suraj Bhagwat Sonawane ... Petitioner
V/s.
 The State of Maharashtra and Ors. ... Respondents

Mr. Ashwinkumar Deore i/b Vaibhav Bagade for the petitioner.

Mr. A.R. Patil, APP for the State.

Mr. M. Sawant, ASI Bangurnagar Police Station.

CORAM : AMIT BORKAR, J.

DATED : APRIL 3, 2023

P.C.:

1. The challenge in this writ petition is to the order dated 17th August 2022 passed by Appellate Authority confirming the order of Externing Authority dated 6th May 2022 externing the petitioner under Section 56(i)(a)(b) of the Maharashtra Police Act, 1951.

2. A show cause notice was issued to the petitioner on 23rd March, 2022 under Section 56(i)(a)(b) of the Maharashtra Police Act, 1951. The details of the offence alleged against the petitioner are as follows.

1/- List of offences registered against you is as follows.

Sr. No.	Police Station	Crime Registered No and Sections	Present Stage/Court Case No.
1.	Bangurnagar Link Road	291/2010, Sections 324, 323, 504, 506(2), 34 I.P.C.	Subjudice 1180/PW/11

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| 2. | Bangurnagar
Link Road | Crime No.34/2016, Section 3, 4, Convicted Maharashtra Prevention of Defacement of Property Act, 1995 613/PS/17 |
| 3. | Goregaon | Crime No.241/2016, Section 3 and 4 Subjudice Maharashtra Prevention of Defacement of Property Act, 1995 5405/PS/19 |
| 4. | Wanrai | Crime No.82/2020, Sections 452, 323, Subjudice 142, 149, 114, 34 of I.P.C. 955/PW/21 |
| 5. | Bangurnagar
Link Road | Crime No.661/2021, Sections 109, 141, Under 143, 147, 149, 324, 323, 504, 506 of Investigation I.PC |

List of Preventive action taken against you is as follows.

Sr. No.	Police Station	Preventive Action
1.	Wanrai	In Mumbai Chapter Case No.06/2020, Court Case No.21/2020 filed before Special Executive Magistrate, Dindoshi Division, you had given a Bond in writing on the date 17/10/2020 under Section 110(e)(g) of the Code of Criminal Procedure for the period of one year in writing regarding maintaining good conduct.

3. The show cause notice mentioned preventive action taken against the petitioner by directing him to execute a bond under Section 110(e)(g) of the Code of Criminal Procedure, 1973.

4. The petitioner filed a reply affidavit and contested the proposed action under Section 56 of the Maharashtra Police Act, 1951. Accordingly, the Externment Authority, by order dated 6th May 2022, externed the petitioner for a period of one year from Mumbai City, Mumbai Suburb, Thane, Palgar and Raigad.

5. Appeal against the order of externment is dismissed by the Appellate Authority.

6. The Appellate Authority reduced the area of Raigad and Palghar and restricted the order of the first authority to the remaining District. Aggrieved thereby, the petitioner has filed a present writ petition.

7. Learned advocate for the petitioner submitted that in the show cause notice, details of alleged offences were not mentioned, which caused prejudice to the petitioner as he could not offer a proper explanation for the incident alleged in the show cause notice. He submitted that there is no live link between the offences alleged against the petitioner and, therefore, the impugned order deserves to be quashed and set aside. In support of his submissions, he relied on the unreported judgment of this Court in Criminal Writ Petition No.2346 of 2021, **Mr. Akbar Jamil Khan Vs. The State of Maharashtra**, dated 25th August, 2021.

8. *Per contra*, learned APP submitted that the authorities below had recorded subjective satisfaction based on material; no ground to interfere is made out. According to him, unless the exercise of power is capricious, arbitrary or perverse, the Externing Authority's decision being administrative, the scope of judicial review is limited. In support of his submission, he relied on the judgment of the Apex Court in the case **State of NCT of Delhi Vs. Sanjeev @ Bitto** reported in (2005) (5) SCC 181. He submitted that Apex Court has laid down parameters of judicial review in relation to administrative action, and unless a case falls within the parameters laid down by the Apex Court, no interference is called for.

9. Regarding the first ground raised by the petitioner, it appears

that in the show cause notice, the Externment Authority has referred to an incident that occurred in the last week of December by referring it to a businessman. It is stated in the notice that the petitioner tried to extort money from the businessman. Another incident is of the Third week of December, where similar allegations of extortion are made by threatening him with force.

10. On perusal of the contents of the show cause notice, it appears that necessary details for arriving for the issuance of show cause notice are mentioned. The petitioner himself has annexed photographs which, according to the petitioner, are in relation to the period of the incident. In my opinion, the details of the incident mentioned in the show cause notice are sufficient to provide a reasonable opportunity to hear the petitioner. The purpose of issuance of show cause notice is to give an idea of the allegations and material made or used against the petitioner in the externment proceeding. No case of legal prejudice has been made contending that the absence of giving the incident date caused prejudice to the petitioner, denying him the opportunity to produce relevant material on record supporting his defence. Considering the reply and the ground raised by the petitioner, in my opinion, no case of prejudice to the satisfaction has been made out. Apart from the above ground, I am satisfied with the facts considering the allegations in the show cause notice that the necessary details are mentioned to enable the petitioner to raise appropriate defence before Externment Authority.

11. The next ground is the absence of Livelink. Although, on perusal of the offences mentioned in the show cause notice, it

appears that the last offences were registered in the year 2022, the show cause notice is dated 23rd March 2022. Therefore, in my opinion, the petitioner is not justified in assailing the ground of the absence of Livelink.

12. In so far as the judgment of the Division Bench of this court is considered, this Court, in the facts of the case, referring to a finding that the allegations against the petitioner are general in nature and there is no live link between the opponent accused, in the facts of the case, set aside the order of externment. In the present case, the last offence was registered in the year 2022, and a show-cause notice was issued on 23rd March 2022. Therefore there is no reason to set aside the externment order on the ground of the absence of livelink as has been held in the Apex Court in the case of **Sanjeev** (supra) in the absence of exercise of discretion being capricious, arbitrary or perverse. Accordingly, this Court is not inclined to entertain the writ petition.

13. Therefore, the Writ Petition stands dismissed. No costs.

(AMIT BORKAR, J.)