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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3813 OF 2022

Omkar Shekhar Sarkate .. Petitioner
v/s.

Division Commissioner Konkan
Division And Ors. .. Respondents

....

Mr. Irfan A. Sheikh, for the Petitioner.

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

....

CORAM: R.G. AVACHAT, J.

DATE : 5 JANUARY 2023.

P.C:-

Heard.

2. The Petitioner has been externed for a period of one year from District of Thane and Karjat, Uran, Panvel, Talukas in District Raigad. The notice under Section 59 (1) of Maharashtra Police Act, to show cause was issued on 28 December 2021. The basis for issuance of the notice was four crimes registered against the Petitioner and some in-camera statements of victims. The details of the four crimes registered against the Petitioner are as under:-

Sr. No.	Police Station	Crime Registration No. & Section	Entry Date	Present status of the Crime
1	Manpada Police Station	601/2017 - Under Sections 143, 147, 149, 323, 504 of IPC and u/s. 37 (1) (3) and 135 of the Maharashtra Police Act.	23/10/2017	<u>Subjudice</u> Court Case No.294/2018
2	Manpada Police Station	728/2018 - Under Sections 324, 323, 141, 143, 145, 147, 148, 149, 506(2) of IPC.	24/12/2018	<u>Subjudice</u> Court Case No.351/2019
3	Manpada Police Station	115/2019 - Under Sections 420, 465, 468, 471, 31 of IPC.	21/02/2019	<u>Subjudice</u> Court Case No.802/2019
4	Manpada Police Station	261/2020 - Under Sections 324, 34 of IPC.	20/7/2020	<u>Subjudice</u> Court Case No.677/2020

3. If we consider the date of registration of the last crime and the date of issuance of show cause notice, there appears to be no live link between the two. The show cause notice was issued one and half year after crime, C.R. No.261 of 2022 was registered against the Petitioner. He was directed to execute a bond of good behaviour. He did execute the same. The Officer concerned admitted the Petitioner to have maintained peace and good behaviour during certain period. The bond came to be abruptly cancelled. The Petitioner was not

served with a notice to show cause as to why the said bond should not be cancelled. Be that as it may, so far as regards in-camera statements of alleged victims are concerned, it appears that the statements do not give details as to day, date and time, on which the Petitioner and his associates threatened, abused and even attempted to extort them. Although the authorities concerned are justified in not disclosing the names of the victims, the details of the alleged criminal activities of the Petitioner ought to have been furnished so that the Petitioner could have met the case. The appellate authority had granted stay to the order of externment, pending the appeal.

4. There is no live link between the crimes registered against the Petitioner and the show cause notice. Moreover, the details as to day, date and time of the alleged criminal activities committed by the Petitioner against the witnesses, whose identify has not been disclosed, were not furnished. This has caused the Petitioner prejudice in his defence. All these facts lead me to upset the order impugned herein.

5. In view of the same, the writ petition succeeds in terms of prayer clause (a).

(R.G. AVACHAT, J.)