



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.274/2024

Dilip Sakatu Maskare,
aged 51 Yrs., R/o Murdala,
Post Dasgaon, Tq. and Dist. Gondia. ... Petitioner

- Versus -

1. State of Maharashtra,
through Sub Divisional Police
Officer, Sub Division Tiroda,
District Gondia.
2. Sub Divisional Magistrate,
Gondia. ... Respondents

Mr. R. M. Daga, Advocate for the Petitioner.
Mr. I.J. Damle, A.P.P. for Respondent Nos.1 and 2.

CORAM: VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 22.4.2024.

JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner has been externed for the period of three months from entire Gondia District by respondent No.2 Sub-Divisional Magistrate, Gondia vide order dated 28.2.2024. The order of externment has been passed in terms of Section 56(1)(a) of the Maharashtra Police Act.

3. The petitioner has challenged the said order by stating it to be unreasonable, arbitrary and against the provisions of law. It is submitted that though four offences have been registered against the petitioner two offences were prior to five years and, therefore, they could not have been considered. Rest of the three offences registered in the year 2023 are under the provisions of Maharashtra Prohibition Act and thus the action is untenable.

4. The State has resisted the petition by supporting the impugned order by filing reply affidavit. It is contended that in the year 2012 a crime under Section 376 was registered against the petitioner in which he was convicted. The petitioner is

continuously indulging into unlawful activities which has caused danger and alarm to the public at large hence the impugned order is sustainable in law.

5. We have examined the impugned order dated 28.2.2024. The order contains a chart showing five offences registered against the petitioner along with two prohibitory actions. The offence at serial No.1 bearing Crime No.1/2012 and at serial No.2 bearing Crime No.160/2019 are quite old preceding to five years and, therefore, they cannot be considered. As regards the rest of the three offences they are under the provisions of Maharashtra Prohibition Act. On examination of the impugned order we do not see subjective satisfaction on the part of the authority about necessity to pass an order of externment. The authority has not assigned any reason which necessitates or makes out a case of probable danger and disturbance of the public order. No in-camera statements have been recorded to substantiate the cause. The order of externment cannot be based merely on the

offences registered under the Maharashtra Prohibition Act. In substance the action taken by the authority is without substantial ground and satisfaction and thus being arbitrary requires to be set aside.

6. In view of the above, impugned order dated 28.2.2024 is hereby quashed and set aside.

The writ petition is allowed in the above terms.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)