



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

CRIMINAL WRIT PETITION NO.346 OF 2024

Swapnil s/o Arun Bhure, aged about
23 years, Occupation : Driver,
Resident of Tadeshwar Ward, Pauni,
Tahsil Pauni, District Bhandara.

...PETITIONER

VERSUS

1. The State of Maharashtra, through
Divisional Commissioner, Nagpur
Division, Nagpur, Tq. And Distt.
Nagpur.
2. Sub Divisional Magistrate, Bhandara,
Tq. And Distt. Bhandara.

... RESPONDENTS

Shri Raju Kadu, Advocate for the petitioner.
Shri N.H. Joshi, Addl.PP for the State.

CORAM : VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 03.09.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith. Heard

finally with the consent of both sides.

2. The petitioner has been externed by respondent no.2 Sub-Divisional Magistrate, Bhandara vide impugned order dated 22.03.2024 for the period of six months from entire Bhandara District. The petitioner has challenged the said order of externment stating to be unreasonable, unjustified, arbitrary and against the provisions of law.

3. The State resisted this petition by filing a reply justifying the action initiated by respondent no.2. It is submitted that there exist reasonable grounds for believing that the petitioner is engaged in the commission of offence falling under Chapter XVII of the Indian Penal Code. After receipt of proposal, preliminary inquiry was done. Notices under Section 59 of the Maharashtra Police Act, 1951 (for short hereinafter referred to as "the Act") has been issued and on being found explanation unsatisfactory, the order of externment has been passed.

4. The impugned order bears a Chart stating that the petitioner has committed three offences pertaining to theft in past proximity, which are pending in the Courts. Crime No.259/2022 was registered at Pawani Police Station on 27.02.2023, Crime No.121/2023 registered at Pawani Police Station on 17.07.2023 whilst Crime No.222/2023 was registered on 16.06.2021. Besides that twice prohibitory actions has been initiated against the petitioner. It reveals that the petitioner was continuously indulging into sand theft activities. During the process, the Police have recorded statements of two secrete witnesses, who stated that the petitioner is indulging into the activities of sand theft. The petitioner used to threaten the locals and thus, the people are not willing to come forward to give the report against the petitioner. The SDPO has verified those statements. It is not in dispute that the prior Show Cause Notice under Section 59 of the Act has been issued and hearing was given to the petitioner.

5. The petitioner has relied on the decision of this

Court in case of *Ganesh s/o Sunil Adhav vs. State of Maharashtra and anr. (Criminal Writ Petition No.45/2024) dated 22.04.2024*, however it pertains to the action under Section 57 of the Act. The petitioner also relied on the decision of this Court in case of *Naushad Ali s/o Rehman Ali Shah vs. State of Maharashtra and anr. (Criminal Writ Petition No.901/2022) dated 19.06.2023*, which relates to action taken under Section 55 of the Act.

6. On account of continuous offence falling under Chapter XVII of the IPC, the Superintendent of Police, Bhandara District has submitted a proposal for externment dated 10.10.2023. On receipt of proposal, preliminary inquiry was done and notices were issued. The impugned order indicates that there are continuous offences of sand theft. Moreover, in-camera statements of secrete witnesses show that witnesses are not willing to come forward to give evidence against the petitioner. The apprehension is well founded. The very purpose of initiating action under Section 56 of the Act is to desist the repeated offenders from

indulging into illegal activities. The action on the part of respondent no.2 is well justified on the ground stated therein.

7. In view of that, we find no substance, hence the criminal writ petition stands rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

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