



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 198 OF 2025

Sujit Punamchand Kahate/Rajput
Age: 35, Occu: Farmer/Driver
R/o. Karnapura, Chh. Sambhajnagar

...PETITIONER

VERSUS

1. The Divisional Commissioner,
Chh. Sambhajnagar Division.
2. The Deputy Commissioner of Police
(Zone-1), Chh. Sambhajnagar.
3. The Senior Police Inspector,
Chawani Police Station.
4. The State of Maharashtra
Through Home Department.

...RESPONDENTS

Mr. Shubham Kahite (Through VC) h/f Mr. D. D. Sahaji, Advocate for
Petitioner.

Smt. A. S. Deshmukh, APP for Respondent/State.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 20th JUNE 2025.

PRONOUNCED ON : 10th JULY 2025.

ORDER :-

1. Heard Mr. Kahite, the learned Advocate for the Petitioner, and Smt. Deshmukh, the learned APP for Respondent-State, finally at the stage of admission, with the consent of the parties.
2. The present petitioner has approached this Court challenging a judgment and order dated 21st January 2025, passed by the learned Divisional Commissioner, Chh. Sambhajinagar, partly allowing the appeal filed by the petitioner. The petitioner has approached this Court to the extent of not allowing the appeal completely.
3. By way of impugned judgment and order, the learned Divisional Commissioner modified the order passed by the learned Deputy Commissioner of Police (Zone-1), Chh. Sambhajinagar, by reducing the period of externment from two years to one year. The learned Deputy Commissioner of Police had passed an order externing the petitioner from District Chh. Sambhajinagar for two years by order dated 12th November 2024.
4. The facts, in short, are that an action was initiated against the present petitioner under Section 56(1)(b) of the Maharashtra Police Act.

A report was received about the petitioner from the Police Sub-Inspector, MIDC Waluj Police Station, through the Senior Police Inspector, Chhawani Police Station, Chh. Sambhajnagar. A proposal was thus prepared and sent to the Deputy Commissioner of Police. The Deputy Commissioner of Police considered that there are four offences pending against the petitioner, as detailed below:

Sr. No.	Police Station	Crime No. and Sections	Registration date	Status
1.	Chhawani	C.R. No. 3077/2015, Section 160 of IPC.	13.05.2015	Acquittal.
2.	Chhawani	C. R. No. 312/2015, Sections 384, 34 of IPC	25.09.2015	Acquittal
3.	Chhawani	C. R. No. 179/2025, Sections 324, 323, 504, 34 of IPC	11.04.2024	Pending
4.	Chhawani	C. R. No. 568/2024, Sections 115(2), 74, 324(1), 125 351(2), 352 of IPC r/w Sec. 4/25 of the Arms Act r/w Sec. 3 and 7 of the Indian Amendment Act, and Sec. 135 of the Maharashtra Police Act.	06.11.2024	Under investigation
5.	Chhawani	Chapter Case No.51/2024, Section 107 of Cr.PC.	12.04.2024.	

Considering this material, the learned Deputy Commissioner of Police had passed an order externing the petitioner from District Chh. Sambhajinagar for two years.

5. The petitioner challenged this order by filing an appeal before the learned Divisional Commissioner, Chh. Sambhajinagar. The learned Commissioner recorded that the order appeared to be excessive and restricted the period of externment to one year instead of two years. The petitioner is thus before this Court.

6. The learned Advocate for the Petitioner vehemently argued that the impugned order passed by the learned Divisional Commissioner is illegal and without any material. The learned Divisional Commissioner ought to have considered that there is no sufficient material to take action against the petitioner and ought to have quashed and set aside the order passed by the learned Deputy Commissioner of Police. The learned Advocate further submits that only four cases were considered against the petitioner. Out of these, he is acquitted in two cases. Those

two cases were filed in 2015 and could not have been considered. Out of two cases of 2024, one is pending before the Court and the other is under investigation. Thus, there is nothing to show that he has been found guilty of any of the offences. The preventive action is from the year 2024. Looking at the sections for which he has been prosecuted, it does not show that externing him is necessary. There is no satisfaction recorded by the authority while passing the order. The secret statements were not known to the petitioner, and thus there is a violation of the principles of natural justice and on that count also, the impugned order deserves to be quashed and set aside. The say filed by the petitioner in response to the notice was not properly considered by the learned Deputy Commissioner of Police.

7. Smt. Deshmukh, the learned APP, vehemently opposed the petition. She submits that the number of offences shows that the action is very much required. The representation was rightly considered. There are secret statements recorded of two persons indicating that people in the locality are not coming forward to speak against the petitioner. If he

is not externed, he will create a law and order situation, and therefore, the action was taken. It is the subjective satisfaction of the authority on the basis of available material that the order is passed. She prays for dismissal of the writ petition.

8. This Court notices that there are only four cases that were considered. Out of these four cases, two are from 2015. The petitioner has been acquitted in both the cases. Out of two cases from 2024, one is pending before the Court, and other is still at the stage of investigation. This Court finds that there is no sufficient material so far as past history is concerned. Coming to the secret statements, it is seen that both the statements are stereotyped, showing that the petitioner showed a knife and threatened not to make complaint before the police. In the another statement, it is shown that by showing a knife, he ransom the amount of Rs.1,000/-. There is one instance where preventive action was taken.

9. While arguing the case, the learned Advocate for the petitioner relied upon the following judgments:

- (i) Umar Mohamed Malbari Vs. K. P. Gaikwad, Dy. Commissioner of Police and Anr.¹;
- (ii) Avinash Kailash Ughade Vs. The State of Maharashtra²;
- (iii) Harikesh @ Guddu Madan Kattilwar Vs. Deputy Police Commissioner and Ors. (Cri. WP/908/2022 Nagpur).

10. In the case of ***Umar Malbari*** (supra), this Court considered that the activities alleged against the petitioner were restricted within a certain locality. The petitioner therein, however, was externed from entire district. It was found that this was an excessive order violating Article 19 of the Constitution of India. The action of externment was, therefore, set aside. It was also held that the impugned order therein suffered from the voice of exercise of excessive jurisdiction.

11. In the case of ***Avinash Ughade*** (supra), this Court held on similar lines that even though the activities were restricted in particular areas, he was externed from the entire district. In the case of ***Harikesh Kattilwar*** (supra), this Court observed that the petitioner was acquitted

1 1988 MahLJ 1034

2 2014 SCC OnLine Bom 4058.

in the cases that were considered by the officer. In that case, the petitioner had not filed a reply to the show cause notice, and thus, the authority had no knowledge of the acquittal from these cases. This Court considered that, in fact, it was necessary for the authority to make an inquiry as to whether the cases were pending or had been disposed off before passing the order.

12. From these judgments, this Court finds that it is the duty of the authorities to satisfy itself about the pending cases. In the present case, as already observed, there is acquittal in two cases, and those are of year 2015. From 2015 for about nine years, there is no offence registered till 2024. Though the learned APP submitted that the offences are serious of voluntarily causing hurt etc., this Court finds that there is already acquittal and only one case is pending. Considering the secret statements also, this Court finds that those are not sufficient enough to take excessive action. This Court, therefore, is satisfied that a case is made out to allow the writ petition. Writ petition is, therefore, allowed. Hence, the following order:

ORDER

- (i) Writ petition stands allowed.
- (ii) The impugned judgment and order dated 21st January 2025, passed by the learned Divisional Commissioner, Chh. Sambhajinagar, is quashed and set aside.
- (iii) With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]