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Cri.-WP-539-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 539 OF 2025

Sheikh Shakeel S/o. Akil Sheikh

Age: 43 years, Occu: Labourer,
R/o. New Jogeshwari, Tal. Gangapur,
Dist. Chhatrpati Sambhajinagar,
Now residing at Newasa Phata,
Near Gadge Baba High Court,
Tal. Newasa, Dist. Ahmednagar.

...PETITIONER

VERSUS

1] **The Inspector of Police,**
Police Station MIDC Waluj,
Dist. Chhatrapati Sambhajinagar.

2] **The Deputy Commissioner of Police,**
Circle-I, Chhatrapati Sambhajinagar.

3] **The Divisional Commissioner,**
Chhatrapati Sambhajinagar.

...RESPONDENTS

Mr. Abid R. Shaikh, Advocate for the Petitioner.
Mr. R. B. Dhaware, APP for Respondent-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 17th JULY 2025.
PRONOUNCED ON : 5th AUGUST 2025.

ORDER :-

1. Heard Mr. Shaikh, the learned Advocate for the Petitioner, and Mr. Dhaware, the learned APP for Respondent-State. The petitioner is heard finally at the stage of admission with the consent of the parties.

2. This petition arises out of an order dated 27th December 2024, passed by the learned Divisional Commissioner, Chhatrapati Sambhajnagar, in Externment Appeal, thereby confirming the order dated 17th October 2024, passed by learned Deputy Commissioner of Police, Circle-I, Chhatrapati Sambhajnagar, externing the petitioner for two years from Chh. Sambhajnagar city and district under the provisions of Section 56(1)(b) of the Maharashtra Police Act, 1951.

3. The facts, in short, are that the petitioner is residing at Jogeshwari Zopadpatti, Ambedkarnagar, Taluka Gangapur District Chhatrapati Sambhajnagar. Following offences are pending against the petitioner:-

Sr. No.	Police Station	Crime No. and Sections	Date of Registration of Crime.	Status
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1.	MIDC Waluj	C.R. No. 815/2024, U/s. 191(1), 221, 189(2), 190 of IPC r/w Section 37(3), 37(1) of Mh. Police Act.	11/09/2024	Under Investigation
2.	MIDC Waluj	C. R. No. 308/2024, U/s. 65(B) of the Mh. Prohibition Act.	11/04/2024	Pending
3.	MIDC Waluj	C.R. No.337/2023 U/s. 307, 323, 504, 506 r/w 34 of IPC and Sec. 3(1), 3(1)(s) of SC and ST Act.	25/04/2023	Pending
4.	MIDC Waluj	C.R. No.417/2019 U/s. 324, 323, 504, 506 of IPC.	10/06/2019	Pending
5.	MIDC Waluj	C.R. No.440/2021 U/s. 65(B) of Mh. Prohibition Act.	05/05/2021	Pending
6.	MIDC Waluj	C.R. No.999/2021 U/s. 65(B) of Mh. Prohibition Act.	03/10/2021	Pending
7.	MIDC Waluj	C.R. No.1062/2021 U/s. 65(B) of Mh. Prohibition Act.	27/10/2021	Pending
8.	MIDC Waluj	C.R. No.237/2022 U/s. 65(B) of Mh. Prohibition Act.	18/03/2022	Pending
9.	MIDC Waluj	C.R. No.340/2022 U/s. 65(B) of the Mh. Prohibition Act.	09/04/2022	Pending
10.	MIDC Waluj	C.R. No. 606/2022 U/s. 65(B) of Mh. Prohibition Act.	04/07/2022	Pending
11.	MIDC Waluj	NC No.605/2022 U/s. 323, 504 of IPC.	19/03/2022	---
12.	MIDC Waluj	NC No.1539/2022 U/s. 323, 504 r/w 34 of IPC.	14/07/2022	---
Preventive Action				

13.	MIDC Waluj	Proposal No.35/2021 u/s. 93 of Mh. Prohibition Act.	01/12/2021	---
14.	MIDC Waluj	Externment Proposal No.30/2022 U/s. 56(1)(B) of M.P. Act.	12/12/2023	----

4. The Police Inspector, MIDC Police Station Waluj found that the activities of the petitioner are dangerous to the society. Several offences were registered against the petitioner. Because of his terror in the society, people are not coming forward to give statements against him openly. He runs a business of illegal activities, such as illicit liquor, etc. Police Inspector, therefore, prepared a report and sent a proposal for taking action against the petitioner of externment.

5. A notice came to be issued to the the petitioner through Police Inspector, Waluj MIDC Police Station. An inquiry was directed. The petitioner appeared before the Inquiry Officer on 11th May 2025. The Inquiry Officer, thereafter, sent a report to the Deputy Commissioner of Police.

6. The Deputy Commissioner of Police, on receipt of report from the Police Inspector, issued a notice to the petitioner calling for say as to why no action be taken against him for externment. Two instances were quoted in the order on the basis of secret statements. The learned Deputy Commissioner of Police came to the conclusion that it is necessary to take action and passed an order dated 17th October 2024, thereby externing the petitioner from Chhatrapati Sambhajnagar City and District for two years and further directed him not to enter in the city and district limits without written permission. He was directed to provide his residential address where he is staying in the State of Maharashtra and directed not to leave State of Maharashtra as well.

7. The petitioner filed an Appeal before the learned Divisional Commissioner. Vide order dated 27th December 2024, the learned Divisional Commissioner rejected the appeal by confirming the order dated 17th October 2024 passed by the learned Deputy Commissioner of Police. Thus, the petitioner is before this Court.

8. Learned Advocate for the petitioner vehemently argued that there is no subjective satisfaction of the authorities recorded in the orders. The offences registered are not serious offences. C.R. No.850/2024 is only under investigation. C.R. No.308/2024 is under the Maharashtra Prohibition Act. C.R. No. 337/2023 is u/s. 307, 323, 504 and 506 of IPC and Sections 3(1) and 3(1)(s) of SC and ST (Prevention of Atrocities) Act, and it is pending before the Court. C.R. No.417/2019 is not a serious offence, and the same is also pending. C.R. Nos.440/2021, 999/2021, 1062/2021, 237/2022, 340/2022, 606/2022 are only under the Maharashtra Prohibition Act, and are also pending before the Court. The petitioner has not been convicted for a single offense. The offenses in crime No.605/2022 and 1539/2022 are only non-cognizable offences and those could not have been considered. The petitioner has already been acquitted in C.R. No.999/2021. The learned Advocate thus submits only two offences are of 2024, and one is of 2023. All other offences are stale offences and could not have been considered by the authorities for taking action. He submits that no proper opportunity was given to the petitioner, as copies of secret statements were not supplied. In any case,

the action of externment from entire district is excessive. All the offences were registered only in MIDC Waluj Police Station and still he was externed from entire city and district. He thus prays for quashing and setting aside the impugned action.

9. During the course of argument, the learned Advocate for the petitioner relied upon the judgments in the cases of ***Sunil Yadavrao Beedkar Vs. The Divisional Commissioner, Aurangabad and Ors.***¹, and ***Ajij Babu Khan Pathan Vs. The State of Maharashtra and Ors.***²

10. Learned APP vehemently opposed the petition. He submits that the police had given notice to the petitioner before taking action. Even inquiry was conducted by giving him a notice. There are statements of secret witnesses showing that because of dangerous activities and terror like situation created by the petitioner, people in the area are not coming forward to give statements openly. The number of offences itself shows that the petitioner is a person who is involved in illegal activities. Most of the cases are under the Maharashtra Prohibition Act. He is the kind of

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a person who does not allow the public servant to take action against him. The orders are, therefore, rightly passed by the authorities. He thus prays for dismissal of the writ petition.

11. In the present case, it is seen that there are total 12 offences registered against the petitioner. Out of which, two are non-cognizable. Seven cases are under the Maharashtra Prohibition Act. One case is only under investigation, and in one he has been acquitted. There is no conviction recorded as of today. Only two cases are from 2024. The authorities have mainly given a reason of pending cases against the petitioner. There is no any other material as of today.

12. In the case of **Sunil Beedkar** (supra), this Court held that when the activities of the person are restricted to only one taluka, the action of externing him from four talukas is excessive and arbitrary. The said action was set aside. In the case of **Ajij Babu Khan Pathan** (supra), it is held that the petitioner was externed from two districts on the ground that 13 criminal cases pending against him. The Division Bench of this Court concluded that while passing the order, the authority did not

mention as to why the petitioner was being externed from two districts. The Court held that the order suffers from non-application of mind and set aside the action.

13. In the present case, looking to the order passed by the learned Divisional Commissioner, it appears that he has not discussed as to how he reached to the satisfaction that action needs to be taken. He has only stated that there are total five offences against the body. From looking to the order as it is, it is seen that there are only two bodily offences pending against the petitioner. Sr. No. 11 and 12 are non-cognizable cases. This observation appears to be against the record. So far as secret statements are concerned, those are almost stereo-type statements and it do not inspire the confidence of the Court. These statements are thus not sufficient to take action against the petitioner.

14. For all these reasons, this Court is not convinced to take action against the petitioner. Thus, the impugned action against the petitioner is quashed and set aside. Hence, the following order:

ORDER

- (i) Criminal Writ Petition stands allowed in terms of prayer clause (B), which reads as under:

“Issue a Writ of Certiorari or any other appropriate writ, order or direction, quashing and setting aside the externment order dated 17.10.2024 passed by the Deputy Commissioner of Police, Circle-1, Chhatrapati Sambhajanagar and the appellate order dated 27.12.2024 passed by the Divisional Commissioner, Chhatrapati Sambhajanagar.”

- (ii) With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]