



(1)

33-WP-600-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 CRIMINAL WRIT PETITION NO. 600 OF 2025

Sandip Sukhdev Lohkare

Age: 33 years, Occu: Agri.

R/o. Holkar Nagar, Tq. Ambad,

Dist. Jalna.

...PETITIONER

VERSUS

1. The State Of Maharashtra

Through Secretary,

Home Department,

Mantralay, Mumbai-32.

2. Divisional Commissioner,

Chh. Sambhajinagar Division,

Chh. Sambhajinagar.

3. Superintendent of Police,

Dist. Jalna.

4. Sub-Divisional Magistrate,

Tq. Ambad, Dist. Jalna.

5. Sub-Divisional Police Officer,

Tq. Ambad, Dist. Jalna.

6. Police Inspector,

P. S. Ambad, Tq. Ambad,

Dist. Jalna.

...RESPONDENTS

...

Mr. Pralhad C. Bhagure, Advocate for the Petitioner.

Smt. C. C. Kutti, APP for Respondent Nos.1 to 6-State.

Ethape

CORAM : KISHORE C. SANT, J.

DATE : 23rd JULY 2025.

PC :-

1. Heard Mr. Bhagure, the learned Advocate for the Petitioner and Smt. Kutti, the learned APP for Respondent-State. The petition is heard finally at the stage of admission with the consent of the parties.

2. The present petition arises out of proceedings under the Maharashtra Police Act, wherein an action of externment is taken against the Petitioner by the learned Sub-Divisional Magistrate, Ambad/Respondent No.4, and the same is confirmed by the learned Divisional Commissioner, Chh. Sambhajinagar/Respondent No.2, vide order dated 16th April 2025, bearing Appeal No. *2025/Sa.Pra./kaksha-1/Pol-1/Haddapar/CR-46*. The learned Sub-Divisional Magistrate, Ambad, passed an order dated 21st January 2025 under Section 56(b) of the Maharashtra Police Act (for short “the said Act”), externing the Petitioner from three districts, namely, Jalna, Beed and Chh.

Ethape

Sambhajinagar, for a period of two years. The said action was taken on the basis of report submitted by Respondent No.6 i.e., Police Inspector, Ambad.

3. It is considered that there are total five offences registered against the present Petitioner, which necessitated the action of externment. The Petitioner challenged the order passed by the learned Sub-Divisional Magistrate by filing an Appeal before the learned Divisional Commissioner. The learned Divisional Commissioner considered the case and confirmed the order. It is considered that since 2019 till 2023, there are five offences registered against the Petitioner. Out of five offences, two offences are body offences. The other offences are of destruction of public property, and other serious offences under the Arms Act and confirmed the order.

4. The learned Advocate for the Petitioner vehemently argued that out of five offences, three are still pending. Two offences are under

investigation. As of now, not a single case is decided against him. Thus, there is no material to hold that the action of externment is necessary against the Petitioner. He submits that the last offence was registered in 2023. Three offences were registered in 2023. Considering these offences, one offence, bearing C.R. No. 330/2023, is under Sections 353, 341, 160, 323 and 336 of Indian Penal Code, 1860 (for short "IPC"), and under Section 135 of Maharashtra Police Act. The offence bearing C.R. No. 431/2023, under Section 12(a) of the Bombay Prevention of Gambling Act r/w Sections 3 and 4 of the Lotteries (Regulation) Act, cannot be said to be dangerous to the public or creating terror in the minds of people. C.R. No. 821/2023 is under Section 3/25 of the Indian Arms Act. Out of these three offences registered in 2023, two offences are under investigation. He further submits that the action is taken in the year 2025. There is no live link between the action and the offences registered against the Petitioner. He lastly submits that all the offences are registered only at Ambad Police Station, and action is taken to extern the petitioner from three districts. The order, thus, appears to be

excessive. There is no subjective satisfaction recorded. The learned Divisional Commissioner failed to apply his mind while considering the appeal.

5. In support of his submissions, the learned Advocate for the Petitioner relied upon the judgment in the case of *Imtiyaz Hussain Sayyad Vs. The State of Maharashtra and Ors.* in Writ Petition No.2805 of 2023 (Bombay). He thus prays for quashing and setting aside the impugned order.

6. The learned APP vehemently opposed the petition. She submits that the Petitioner is a person engaged in the activities of Gambling and Mataka, which has an adverse effect on society. The people in the area are terrorized by him. He is reportedly found involved in such activities. There are confidential statements of the persons, who have stated that they are not showing courage to depose against the Petitioner. It is for this reason, the action is taken against the Petitioner. By relying on

affidavit-in-reply filed by Respondent, she submits that the petitioner is a member of notorious gang in the areas where he lives. He keeps with him sharp weapons, fire crackers etc. In spite of several notices, he did not improve his behaviour. The authorities have, therefore, taken action against him. She submits that the action was taken by giving proper opportunity to the Petitioner. There is no illegality in the order. She thus prays for rejection of the writ petition.

7. This Court has heard the submissions and has gone through the impugned order. The learned APP has also placed on record the entire file of the matter. It is now well settled that while taking the action against any person under Section 56(b) of the said Act, the authorities must record satisfaction for concluding that the presence of the person is dangerous for the people staying in the locality. It has become necessary in the interest of law and order situation to expel such a person. For satisfaction, there need to be serious offences against the Petitioner. The authority should satisfy itself that because of the actions, and the

activities of such a person, people are not coming forward to register any complaint and coming forward to depose against him.

8. In the case of *Imtiyaz Hussain Sayyad* (supra), this Court by considering the judgment in the case of *Deepak Laxman Dongre Vs. The State of Maharashtra and Ors.*¹ It is considered in the said case that, there were only two cases pending. It did not satisfy the requirement of clause (b) of Section 56, as the crimes were only under investigation and charge-sheet was also not filed. It is considered that the crimes under investigation cannot be taken into consideration. In the present case, two offences are shown to be under investigation. There is no trial yet concluded and there is no conviction still recorded.

9. From looking to the order passed by Respondent No.4/SDM, it is seen that the action is taken under the apprehension that the Petitioner is likely to purchase weapons like a sword, pistol, etc. and is likely to commit offences since parliamentary and legislative assembly elections

1 AIR 2022 SC 1241

are scheduled in the year. It considered that there are two in-camera statements taken, wherein it is stated that they do not have the courage to depose against the Petitioner. While concluding, it is stated that there are five offences registered against the Petitioner. There is no subjective satisfaction shown or recorded in the order. The learned Divisional Commissioner confirmed the order. However, he has also not given any independent reasoning, except that the offences are pending. Admittedly, there is no conviction recorded till taking action.

10. Merely because the authorities apprehend a law and order situation, is not sufficient to take action under Section 56 of the said Act. This Court also finds substance in the argument of learned Advocate for the Petitioner that the alleged activities are confined only to the jurisdiction of Ambad Police Station, and still, the action is taken externing the Petitioner from three districts. Certainly, the order appears to be excessive, calling for interference at the hands of this Court. Considering above, the impugned order 16th April 2025, passed by the

learned Divisional Commissioner, Chh. Sambhajanagar, deserves to be quashed and set aside. Hence, the following order:-

ORDER

(a) Criminal Writ Petition is allowed in terms of prayer clause (b) which reads as under:

“b. By issuing the Writ of Mandamus or any other appropriate writ order or directions in the like nature, be quashed and set-aside the order of externment dated 16/04/2025, passed by Respondent No.2 Divisional Commissioner, Chh. Sambhajanagar vide 2025/Sa.Pra./kaksha-1/Pol-1/Haddapar/CR-46 issued under Section 60 of the Maharashtra Police Act, 1951.”

(b) With this, criminal writ petition stands disposed off.

[KISHORE C. SANT, J.]