



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 649 OF 2025

Balaji s/o Dashrath Deshmukh,
Age : 38 years, Occu. : News Reporter,
R/o. : Gugul Pimpri, Tq. Sengاون,
District Hingoli.

.. Petitioner

Versus

1. The State of Maharashtra
Through the PI, Goregaon Police Station.
2. The Divisional Commissioner,
Chhatrapati Sambhajnagar.
3. The Sub-Divisional Officer cum
Sub-Divisional Magistrate, Sub-
Division Hingoli, Hingoli,
Taluka and District Hingoli.
4. The Superintendent of Police,
Hingoli, Taluka and District Hingoli.

.. Respondents

Mr. Joslyn A. Menezes, Advocate for the Petitioner.
Smt. Chaitali Choudhari-Kutti, APP for Respondents/State.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 24th July, 2025.

Date on which order pronounced : 04th September, 2025.

FINAL ORDER :-

. This petition arises out of externment proceedings. The

petitioner is externed by an order passed by respondent No. 3 – Sub Divisional Police Officer (S.D.P.O.) *cum* Sub Divisional Magistrate, Hingoli. The order passed by respondent No. 3 is confirmed in appeal by respondent No. 2 – Divisional Commissioner, Chhatrapati Sambhajinagar.

2. The facts in short giving rise to the present petition are as under :

3. The petitioner is residing at village Gugul Pimpri, Taluka Sengaon, District Hingoli. Some offences are pending against the petitioner. A proposal was therefore sent by the Police Station Goregaon to respondent No. 3 for taking action of externment through learned Superintendent of Police, Hingoli – respondent No. 4. On receipt of proposal it was sent for enquiry to learned S.D.P.O. He submitted his report with recommendation that the petitioner be externed for two years from District Hingoli stating that there are five offences pending against him.

4. On receipt of report a notice came to be issued to the petitioner. The petitioner submitted his say. The learned S.D.P.O. on giving opportunity of hearing and considering the report and

secret statements of two persons passed an order dated 05.03.2025. He is further directed to give at least ten days notice if he is required to go out of Maharashtra. The petitioner approached the learned Divisional Commissioner by filing an appeal. The learned Divisional Commissioner by order dated 08.05.2025 confirmed the order by modifying the period to six months from the date of order. Thus, the petitioner is before this Court.

5. While considering the proposal the material before the respondents was of five complaints, the report and the secret statements.

6. The learned advocate Mr. Menezes for the petitioner vehemently argued that, while passing the order the authorities considered that five offences were pending against the petitioner. However, on the date of passing order he was already acquitted from the offences arising out of Crime Nos. 236/2021 and 05/2013. The same is not considered by the authorities. So far as other offences are concerned, those are only pending. There is no conviction recorded against the petitioner. Thus, on the date of

action there was no sufficient material appearing against the petitioner to take such drastic action. One of the offences i.e Crime No. 139/2021 is arising out of money transaction. Two cases are lodged under the S.C. and S.T. (Prevention of Atrocities) Act out of the said transaction. The respondent No. 3 himself in the order has stated that there are four offences pending in the Police Station Goregaon. Those are non cognizable offences. The offences are personal in nature, however, the same is not properly appreciated by the authority. There were statements of two persons having prestige in the society not to take action, however, that is also not properly considered. He further submits that, no subjective satisfaction is reflected in the order. There is no live link between the offences and action. The offences are ranging from the year 2013 to 2024. He thus submits that the petition deserves to be allowed.

7. The learned A.P.P. for the respondents/State submits that, earlier proceeding was dropped. There was still sufficient material against the petitioner to take action. It is submitted that looking to the conduct of the petitioner it is clear that the petitioner is not a law abiding person. Notice was sought to be

served upon him. However, he did not accept the said notice. She further submitted that there are secret statements showing that the witnesses are not coming forward to depose against him because of threats. She has also produced on record the original file. She thus prays for dismissal of the petition.

8. This Court has heard the learned advocate for the petitioner and the learned A.P.P for respondents. Following are the offences pending against the petitioner :

Sr. No.	Police Station	Crime No.	Sections
1.	Goregaon	181/2024	394, 324, 323, 504, 506 of IPC.
2.	Goregaon	80/2019	385 of IPC.
3.	Goregaon	139/2021	323, 506 of IPC & 3(1), 3(1)(5), 3(2)(va) of Atrocities Act.
4.	Goregaon	236/2021	394, 324, 323, 506 of IPC & 3(1)(R), 3(1)(S), 3(2)(va) of Atrocities Act.
5.	Goregaon	05/2013	307, 504, 506, 34 of IPC.

9. It is matter of record that he is acquitted from the offences i.e. Crime Nos. 236/2021 & 05/2013. Other offences are only pending against him, there is no conviction recorded as on today. The offence in Crime No. 80/2019 is not body offence. The offence in Crime No. 139/2021 is also not grave offence. The offences in Crime No. 181/2024, though are body offences are not

serious in nature. From the orders passed by the authorities it is seen that the authorities have not properly appreciated this fact. This Court has perused the secret statements. There is no specific instance quoted in the secret statements. It is only stated that, because of fear of the petitioner no witness is coming forward to depose against him.

10. Considering the above, this Court finds that the material on record was not sufficient to take drastic action of externment. This Court finds that the material is short to satisfy the requirement of Section 56 of the Maharashtra Police Act. The learned S.D.P.O. thus failed to appreciate that there is no conviction recorded against the petitioner. The learned Divisional Commissioner also failed to appreciate this fact. Both the authorities have thus passed the orders which deserve to be quashed and set aside.

11. In view of the above discussion, this Court finds that the writ petition deserves to be allowed. Hence, criminal writ petition is allowed in terms of prayer clause (B).

12. Criminal writ petition stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.