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WP-655-2025.

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

CRIMINAL WRIT PETITION NO. 655 OF 2025

Shekhar Raju Shirke
Age: 35 years, Occu; Labour,
R/o. Lane No.2, Bhim Nagar,
Bhavsingpura, Aurangabad.

...PETITIONER

VERSUS

1. The Divisional Commissioner,
Chhatrapati Sambhajnagar Division,
Chhatrapati Sambhajnagar.
2. The Deputy Commissioner,
Circle-I Chhatrapati Sambhajnagar.

...RESPONDENTS

Mr. H. F. Pawar, (through VC) and Mr. Suraj N. Pradhan i/by Mr. Kiran P. Rajput, Advocates for Petitioner.

Mr. R. B. Dhaware, APP for Respondent Nos. 1 and 2-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 1st AUGUST 2025.
PRONOUNCED ON : 8th SEPTEMBER 2025.

ORDER :-

1. Heard Mr. Pawar, the learned Advocate for the petitioner and Mr. Dhaware, the learned APP for Respondent-State. The matter is heard

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for final disposal at the stage of admission with the consent of the parties.

2. The present petition arises out of judgment and order dated 3rd April 2025 passed by the learned Divisional Commissioner, Chh. Sambhajinagar Division, in Externment Appeal No. 2025/G.A./Desk-1/Pol-1/Externment/Cr-18, thereby confirming the order dated 20th January 2025 passed by the learned Deputy Commissioner, Circle-I Chh. Sambhajinagar, externing the petitioner for two years from Chh. Sambhajinagar District, under Section 56(1)(b) of the Maharashtra Police Act.

3. The facts, in short, are that a notice came to be issued to the petitioner under Section 59 of the Maharashtra Police Act on 10th August 2024 by the office of Assistant Police Commissioner asking as to why no action under Section 56(1)(b) be taken against him. It is stated in the notice that the Police Inspector, Chhawani Police Station, Chh. Sambhajinagar, sent a proposal to the office of Deputy Commissioner of

Police, Chh. Sambhajnagar. An Enquiry Officer was appointed to conduct an enquiry and call for an explanation. It is stated that there are witnesses who have given statements that because of fear of the petitioner, no people are coming forward to depose against him. Total 11 offences are mentioned in the said notice pending against the petitioner. The details and status of the offences registered against the present petitioners are as below:

Sr. No.	Police Station	Crime No.	Sections	Date of registration of Offence	Present status
1	Cantonment Police Station	396/2020	326, 324, 143, 147, 148, 149 of IPC.	18/12/2020	Pending
2	Kranti Chowk Police Station	465/2020	379 of IPC.	31/12/2020	Pending
3	Cantonment Police Station	38/2019	354, 504, 427, 34 of IPC.	19/01/2019	Disposed on 20.04.2023
4	Cantonment Police Station	17/2015	341, 323, 504, 506, 34 of IPC.	06/02/2015	Disposed on 24.10.2016
5	Cantonment Police Station	319/2012	452, 323, 504, 34 of IPC.	20/12/2012	Disposed on 08.07.2015
6	City Chowk Police Station	250/2010	143, 186 of IPC and Sec. 135 of M. P Act.	04/10/2010	Disposed on 07.04.2016
7	Cantonment Police Station	94/2023	65(e) of Bombay Prohibition Act.	10/03/2023	Pending
8	Cantonment Police Station	305/2022	65(e) of Bombay Prohibition Act.	27/08/2022	Pending

9	Cantonment Police Station	283/2022	65(e) of Bombay Prohibition Act.	17/08/2022 0	Pending
10	Cantonment Police Station	196/2022	65(e) of Bombay Prohibition Act.	06/06/2022	Pending
11	Cantonment Police Station	535/2021	65(e) of Bombay Prohibition Act.	02/10/2021	Pending

4. Petitioner replied the said notice stating that offences are not serious in nature. There is no sufficient material to take drastic action of externment. It is prayed to drop action taken against him. The Deputy Police Commissioner Circle-I, Chh. Sambhajinagar, gave personal hearing and subsequently passed an order against the petitioner under Section 56(1)(b) of the said Act. The petitioner was also directed not to enter the Chh. Sambhajinagar city and district without permission of the said authority or the State of Maharashtra.

5. Being aggrieved by the said order, the petitioner preferred an appeal before the learned Divisional Commissioner, Chh. Sambhajinagar Division. The learned Divisional Commissioner confirmed the order passed by the learned Deputy Commissioner of Police vide order dated

20th January 2025. The period of 2 years is reduced to period of 1 year. Against the said order, the petitioner is thus before this Court.

6. Mr. Pawar, the learned Advocate for the petitioner, vehemently argued that, there is no sufficient material to take action of externment. The offences are not serious in nature. Most of the offences are registered under the Bombay Prohibition Act and it cannot be said to be of such a nature requiring action of externment. All the cases are pending before the Court. The guilt of the petitioner is yet to be established. He also submits that the secret statements were not provided to the petitioner. There is violation of natural justice. He thus prays for setting aside the order of externment passed by the authorities.

7. In support of his submissions, he relied upon judgments in the case of *Vishal Vijay Sonawne Vs. District Magistrate Jalgaon and Ors.* passed in Criminal Writ Petition No. 998/2023 (Aurangabad) and in the case of *Paramjitsingh @ Jantil Sarda S/o. Gurucharansingh Lohiya Vs. State of Maharashtra and Anr.* passed by this Court in Criminal Writ Petition No.

756 of 2022 (Nagpur).

8. Mr. Dhaware, the learned APP, vehemently opposed the petition. He submits that there is voluminous material available against the petitioner. There are total 12 cases pending against him involving bodily offences and offences against women. The authorities have considered the secret statements of two ladies which shows the conduct of the petitioner in the society. From the secret statements it appears that, it is necessary to check the activities of the petitioner, and therefore, the order was passed. The order was passed giving proper opportunity to the petitioner. He thus prays for dismissal of the writ petition.

9. This Court has heard the parties and has also seen the secret statements. The offences pending against the petitioner which are considered by the authorities. There is no conviction recorded against the petitioner, as on today in any of the offences. Though some offences were shown to be bodily offences, there are no much serious offences. From the chart at serial No.7 to 11, these offences are registered under

the provisions of Bombay Prohibition Act. This Court has also seen the secret statements which are produced by learned APP before this Court. The statement of witness-A is of one lady. She has stated in the statement that the petitioner is engaged in the business of selling country-liquor and other illegal business. She states that he gave threats to the people. He is oftenly involved in the fights with other persons. About two to two and half years back, he came in front of her house and threatened her not to make any complaint against him. He takes undue advantage of the position of his sister, who is a police. His sister gives the information to the petitioner of the persons complaining against him, so he can then threaten those persons. The second statement is also of a lady. She stated that about three months back, in the night, this petitioner came near her on the road and extorted amount of Rs.500/-. He also further threatened her not to disclose this to anyone.

10. In the case of ***Vishal Sonawne*** (supra), it is considered that secret statements of the witnesses were showing the allegations of general nature, and therefore, action of externment was quashed and set aside.

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In the case of *Paramjitsingh @ Jentil Sarda S/o. Gurucharansingh Lohiya Vs. State of Maharashtra and Anr.* passed by this Court in Criminal Writ Petition No. 756 of 2022 (Nagpur). It is considered that most of the offences were registered under Maharashtra Provision Act. It was considered that other offences were not serious offences. By considering earlier judgments and the judgment of the Hon'ble Apex Court, the action of externment is set aside.

11. In the present case, this Court finds that from the secret statements of the witnesses, it is not seen that a case is made out to take drastic action against the petitioner. In such view of the matter, this Court is inclined to allow the writ petition. Hence, the following order.

ORDER

Criminal Writ Petition stands allowed in terms of prayer clause (C).

[KISHORE C. SANT, J.]