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WP-729-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 729 OF 2025

Jabbar @ Jumma s/o.
Gaffar Khan Pathan,
Age :32 years. Occu: Business,
r/o. Ohargaon, Tq. and Dist.
Chh. Sambhajinagar.

...PETITIONER

VERSUS

- 1] **The State of Maharashtra**
Through Divisional Commissioner,
Chh. Sambhajinagar.
- 2] **The Dy. Commissioner of Police,**
Chh. Sambhajinagar
Zone No.2, Sambhaji Colony,
N-6, CIDCO, Chh. Sambhajinagar.
- 3] **The Police Inspector,**
Harsool Police Station,
Tq. and Dist. Chh. Sambhajinagar.

...RESPONDENTS

Mr. R. G. Hange, Advocate for the Petitioner.
Smt. A. S. Deshmukh, AGP for Respondent-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 16th JULY 2025.
PRONOUNCED ON : 5th AUGUST 2025.

ORDER :-

1. Heard Mr. Hange, the learned Advocate for the petitioner, and Smt. Deshmukh, the learned APP for Respondent-State. The petition is taken up for final disposal at the stage of admission with the consent of the parties.

2. The present writ petition arises out of proceedings under Section 56(1)(b) of the Maharashtra Police Act, 1951 (for short, “the said Act”). The petition challenges the action of externment passed by the learned Deputy Commissioner of Police, Zone-II, Chh. Sambhajinagar dated 31st January 2025 and confirmed by the learned Divisional Commissioner, Chh. Sambhajinagar, by his judgment and order dated 16th April 2025 in an appeal.

3. The facts giving rise to the present petition are that the petitioner was served with a show cause notice dated 4th December 2024 by the Assistant Police Commissioner, CIDCO Division, Chh. Sambhajinagar. It is stated in the said notice that the activities of the petitioner are

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dangerous to the society, and that the people in the society are apprehending danger or threat to their life and property. The people in the society are not coming forward to give statements against the petitioner, etc. Say was called of the petitioner. It is further considered that the following offences were pending against the petitioner.

(i) C.R. No.61/2023 dated 31st March 2023, registered with Harsool Police Station, for offences under Sections 326, 141, 143, 147, 149, 201 of IPC;

(ii) C.R. No.218/2024 dated 18th August 2024 registered with Harsool Police Station for offences under Sections 108, 351(2), 351(3), 3(5) of BNS and;

(iii) C.R. No.221/2024 dated 21st August 2024 registered with Harsool Police Station for offences under Sections 3, 4 and 25 of the Arms Act and Section 135 of Maharashtra Police Act.

4. The action of externment from Chh. Sambhajinagar City and district for two years was proposed. The petitioner appeared by filing say dated 13th December 2024. The petitioner stated that the offence in C.R. No.61/2023 is filed with a political motive and due to vengeance, as the

petitioner happens to be a Member of Gram Panchayat Ohargaon. He contended that it was a counter-blast to a complaint filed against the informant by some of the relatives of the petitioner. So far as Crime No.218/2024 is concerned, it is stated that the said complaint is pending and the petitioner is on bail. So far as third case i.e. C.R. No.221/2024, it is stated that on inquiry, no arm is found. There is also one chapter case where action under Section 107 of Cr.P.C. is taken. He, therefore, prayed that no action be taken.

5. The learned Deputy Commissioner of Police considered that three offences are pending against the petitioner i.e. C.R. No.61/2023 is pending before the Court and other two offences are under investigation. There is also one chapter case No. 76/2023. He further considered the statements of secret witnesses and the inquiry report wherein there was an action proposed to extern the petitioner for two years. The learned Deputy Commissioner, therefore, passed an order externing the petitioner for two years from District Chh. Sambhajinagar and issued a final show cause notice calling upon him as to why no

action be taken. Petitioner appeared and submitted his say on 8th January 2025.

6. The learned Deputy Commissioner of Police, vide order dated 31st January 2025, passed an order externing the petitioner from Chh. Sambhajinagar for one year. The petitioner filed an appeal before the learned Divisional Commissioner. Vide order dated 16th April 2025, the learned Divisional Commissioner rejected the appeal. The petitioner, therefore, approached this Court.

7. Mr. Hange, the learned Advocate for the petitioner, vehemently argued that there are only three cases pending against the petitioner. Out of three cases, only one is pending in the Court, and two cases are still under investigation. No conviction is recorded in any of the cases. Both the authorities have thus failed to appreciate that mere pendency of cases is not a sufficient ground to take action of externment. One of the cases is only under the Arms Act, where no bodily offence is made out. He submits that the action is only due to village politics. The

learned Deputy Commissioner of Police has accepted the report submitted by the Assistant Commissioner of Police indicating lack of personal satisfaction. Even the notice issued by the Deputy Commissioner of Police was flawed, and in his submission, the action is totally without any foundation. He, therefore, prays for allowing the writ petition.

8. Smt. Deshmukh, the learned APP, vehemently opposed the petition. She submits that there are three offences pending against the petitioner. Now, the charge-sheets have been filed in the cases which are shown to be under investigation. The first crime was registered in the year 2023, for offences under Sections 326, 141, 143, 147, 149, 2021 of the IPC. She argued that the action of externment is a preventive action, wherein the conduct of a person needs to be seen. The action is taken on the report submitted by the responsible police officer. There are two offences registered in the year 2024 i.e., one offence registered on 18th August 2024, and immediately within a week's time, another offence came to be registered. It is shown that the petitioner is actively involved

in criminal activities. She further submits that the petitioner is found with dangerous weapon, which creates terror in the minds of people. From the papers available with her, she submits that the petitioner moved around with a dangerous weapons. There are secret statements recorded of two persons. From those statements it is clearly seen that the petitioner is involved in the activities of fighting and ransom, etc. He even prepared reels, creating terror in the minds of people. He had taken an amount of Rs.500/- from one of the persons, who gave a secret statement, by showing a fighter. Another secret statement maker also mentions that an amount of Rs.900/- was taken from him by showing a knife. She thus submits that a case is made out to take action of externment. She prays for rejection of the writ petition.

9. After hearing the parties and going through the petition and the papers produced by the learned APP, it is clear that the material available with the authorities consists of the record of three cases pending against the petitioner. Two of these cases are still under investigation. Now charge-sheet is filed as per learned APP and one case is pending before

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the Court, but the same has not yet concluded. There is also one chapter case where action under Section 107 of Cr.P.C. has been taken. The offence in C.R. No.61/2023 under Section 326 of IPC though is a serious offence, no conviction has been recorded yet. In C.R. No.218/2024, the allegation is of abetment to commit suicide, however, the complaint was filed based on suspicion that it is the petitioner who has abetted a suicide. However, the said offence is still under investigation. C.R. No.221/2024 is under Arms Act. It was filed on the basis of some reels circulated on a whats-app group where he is shown standing in front of a car with a rifle and a sword.

10. This Court finds that certainly, this much material cannot be said to be sufficient enough to take action of externment. The offences are pending only at one police station i.e. Harsool Police Station and still the action is taken for the entire district.

11. The learned Advocate for the Petitioner has relied upon the judgment in the case of *Sujit Punamchand Kahate/Rajput Vs. The*

Divisional Commissioner and Ors. passed in Criminal Writ Petition No. 198 of 2025 dated 10th July 2025 (Aurangabad Bench). This Court, in the said case, by considering the earlier judgment, had set aside the order of externment.

12. Learned APP relied upon the judgment in the case of *Akash @ Guddya Dnyaneshwar Jadhav and Anr. Vs. The State of Maharashtra and Ors.* passed in Criminal Writ Petition No.504 of 2025 dated 23rd June 2025 (Aurangabad Bench). In the said case, this Court had modified the order of externment by restricting it only to the extent of one Taluka where the offences were registered against the petitioner therein.

13. Considering the overall material, this Court finds that this material is not sufficient to take action to extern the petitioner from entire district for one year. This Court is, therefore, inclined to allow the writ petition. Hence, the following order:

ORDER

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

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“To quash and set aside the order dated 31.01.2025 passed by Dy. Commissioner of Police Chhatrapati Sambhajinagar Zone No.2, of Externment petitioner from the area of Police Commissionerate Chhatrapati Sambhajinagar and District for one year and order dated 16.04.2025 passed by Divisional Commissioner Chhatrapati Sambhajinagar confirming the said order of externment for one year.”

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

[KISHORE C. SANT, J.]