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WP-1566-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1566 OF 2024

Mr. Kashinath s/o. Vitthal Mandage,
Age: 49 years, Occu: Agri.
R/o. Belwadi, Tq. & Dist. Hingoli.

...PETITIONER

VERSUS

1. The Divisional Commissioner,
Chh. Sambhajnagar,
Tq. and Dist. Chh. Sambhajnagar.
2. The Superintendent of Police,
Dist. Hingoli.
3. The Sub Divisional Magistrate,
Hingoli, Tq. & Dist. Hingoli.
4. The Sub Divisional Police Officer,
Hingoli Rural, Tq. & dist. Hingoli.
5. The Police Inspector,
Hingoli Rural Police Station,
Tq. & Dist. Hingoli.

...RESPONDENTS

Mr. Ramrao G. Nirmal h/f Mr. S. S. Gangakhedkar, Advocate for the
petitioner.
Smt. Chaitali Chaudhari-Kutti, APP for Respondent Nos. 1 to 5– State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 29th JULY 2025.
PRONOUNCED ON : 8th SEPTEMBER 2025.

ORDER :-

1. Heard Mr. Nirmal, the learned Advocate for the Petitioner, and Smt. Chaudhari-Kutti, learned APP for Respondent Nos. 1 to 5-State. The matter is heard for final disposal at the stage of admission with the consent of the parties.
2. This petition arises out of an order dated 11th July 2024, passed by the learned Divisional Commissioner, Chh. Sambhajinagar, in Externment Appeal, thereby confirming the order dated 30th April 2024 passed by learned Superintendent of Police, Hingoli, externing the petitioner for two years from Hindogli District under Section 56(1)(b) of the Maharashtra Police Act, 1951.
3. Respondent No.1 learned Divisional Commissioner, Chh. Sambhinagar, respondent No.2 is Superintendent of Police, Respondent No.3 is the Sub-Divisional Magistrate, Hingoli, Respondent No.4 is the Sub-Divisional Police Officer, Hingoli and Respondent No.5 is the Police Inspector attached to Hingoli Rural Police Station, Hingoli.

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4. The facts, in short, giving rise to the present petition are that, the petitioner was found to be involved in offences registered with Hingoli City Police Station and Hingoli Rural Police Station. The Local Crime Branch, therefore, sent a proposal to extern the petitioner from Hingoli district. On receipt of proposal, notice was sent to the petitioner on 27th March 2023, stating that though reply is filed, the same is not satisfied and again called for the petitioner alongwith Advocate, if he so desired. The petitioner again appeared by filing say. The learned SDM, on receipt of report, again issued a notice asking as to why no action of externment be taken against him. The petitioner again filed reply on 4th March 2024. The SDM, thereafter, considered that there are offences pending against the petitioner and passed the order directing him to remove himself for a period of two years from Hingoli district.

5. The petitioner, being aggrieved by the said order, filed appeal before the learned Divisional Commissioner, Chh. Sambhajinagar. The Divisional Commissioner after hearing the parties, confirmed the order passed by the learned Sub-Divisional Magistrate. Therefore, the

petitioner is before this Court.

6. Mr. Nirmal, the learned Advocate for the Petitioner, vehemently argued that there are no sufficient reasons to take drastic action of externment against the petitioner. There are only two offences considered, which were pending against him. One of the offences is pending before the Court. The other offence was still under investigation, and no charge-sheet was filed. There is no conviction recorded till taking of the action. Both the offences are registered with Hingoli Rural Police Station and Hingoli City Police Station. He is still externed from the entire district. The action is thus excessive. He, therefore, prays for allowing the writ petition.

7. Learned APP vehemently opposed the petition. He submits that the activities of the petitioners are dangerous to the society. There are two offences pending against the petitioner. Both offences are of serious nature. Both the authorities have rightly appreciated the material produced before them. Offences pending against the petitioner are, C.R. No.399/2022 registered with Hingoli City Police Station, for offences D.A.Ethape

under Sections 302, 120B, 201, 294, 504, 506 read with 34 of the IPC and Sections 3(1)(r), 3(1)(s), 3(1)(y), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and C.R. No. 11/2023 registered with Hingoli Rural Police Station for offences under Sections 436, 143, 427, 506 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(5) of the Atrocities Act. The authorities have rightly passed the orders by considering these two offences and no interference is required. She thus prays for dismissal of the writ petition.

8. This Court has considered the submissions of the learned Advocate for the petitioner. By looking to the order it is seen that, there are only two offences considered. One case is of murder and other is under Sections 436, 143, 427, 506 of IPC and under the Atrocities Act. This Court does not find that sufficient material was available before the authorities. The learned Divisional Commissioner has not discussed in detail as to what led him to confirm the order and still he has confirmed it. The order also appears to be excessive, considering that offences are pending only in Hingoli City Police Station and Hingoli Rural Police

Station. There is no material to show that the people are not coming forward openly to depose against the petitioner because of fear. This Court thus finds that in absence of sufficient material, it was not proper to pass impugned externment order. No such grave case has been made out. This Court thus finds that petition deserves to be allowed by quashing and setting aside the action of externment. Hence, the following order:

ORDER

- (i) Criminal Writ Petition is allowed.
- (ii) The impugned order of externment dated 30th April 2024, passed by the Superintendent of Police, Hingoli and confirmed by the learned Divisional Commissioner, Chh. Sambhajinagar, vide order dated 11th July 2024, are hereby quashed and set aside.
- (iii) With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]