



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1969 OF 2024

Rahul @ Talya S/o Gajanan Thorat

Age: 28 Years, Occu: Labourer,
R/o. Rangari Chawl, Beside, Railway Station
Tq. Amalner and Dist. Dhule.

...PETITIONER

VERSUS

1] The State of Maharashtra

2] Sub Divisional Officer, Dhule

3] Sub Divisional Police Officer, Dhule

4] Assistant Superintendent of Police, Dhule

...RESPONDENTS

Mr. S. S. Ghodke, Advocate for the Petitioner.

Smt. A. S. Deshmukh, APP for Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 12th JUNE 2025.

PC :-

1. Heard Mr. Ghodke, the learned Advocate for the Petitioner, and Smt. Deshmukh, the learned APP for Respondent/State, finally at the stage of admission, with the consent of the parties.

2. The petition arises out of judgment and order dated 22nd October 2024, passed by the learned Divisional Commissioner, Nashik Division, Nashik, in Externment Appeal No.108 of 2024, whereby the appeal filed by the petitioner came to be rejected. By way of impugned judgment and order, the order 3rd May 2024 passed by the learned Sub-Divisional Officer, Dhule, directing the externment of the petitioner from Dhule District for term of one year from the date of order i.e. 3rd May 2024 came to be confirmed.

3. The facts, in short, giving rise to the petition are that, on 30th November 2023, the learned Sub-Divisional Officer, Dhule, issued a notice to the petitioner under Section 59 of the Maharashtra Police Act, 1951 (for short “the said Act”) directing him to remain present for an inquiry and asked as to why action under Section 56-A of the said Act should not be taken. Thus, inquiry was started upon receipt of a proposal of Sub-Divisional Officer, Dhule. It is on the basis of nine offences pending against the petitioner and one action under Section 110(e)(g) of the Cr.P.C. The petitioner did not appear for an inquiry. A

second notice therefore came to be issued on 2nd September 2024. Even 3rd Notice required to be issued as the petitioner remained absent on earlier two occasions. Ultimately, after hearing the parties and considering the inquiry report, the learned Sub-Divisional Officer, Dhule, passed an order on 3rd May 2024, externing the petitioner from entire Dhule District for a period of one year from the date of order.

4. Being aggrieved by this order, the petitioner preferred an Appeal bearing No.108 of 2024 before the learned Divisional Commissioner, Nashik Division, Nashik. The said appeal came to be dismissed by the learned Commissioner by way of impugned judgment and order dated 22nd October 2024. Thus, the petitioner is now before this Court.

5. Mr. Ghodke, the learned Advocate for the petitioner, argued that while taking action, the authorities have considered nine offences. Out of which Crime Nos.125/2012, 178/2012, 50/2013, 248/2013, 62/2015 and 201/2015, registered with City Police Station, Dhule, are not proved. In crime No.216/2012, he is acquitted. Crime No.237/2023 is still under investigation. An action under Section 110 (e)(g) is also from

City Police Station, Dhule. There is no conviction recorded till now. The action taken is thus without any sufficient material on record. In six offences, which are not proved, he was acquitted prior to 2015. As on today, only two offences are pending, and action has been taken based on these. He further submits that the action was thus taken without any basis. From the order, no subjective satisfaction of the authorities is evident. There is no sufficient discussion about the secret statements. He therefore submitted that the action is wrongly taken and the same deserves to be quashed and set aside.

6. Smt. Deshmukh, the learned APP for Respondent/State, opposed the writ petition. She submitted that there is a live link between the offences pending against the petitioner and the action taken. Offences were against body, which clearly shows that there is apprehension and fear in the mind of people in the vicinity because of the activities of the petitioner. In spite of the action was taken under Section 110 (e)(g), no change appeared in the behaviour of the petitioner. The people are not coming forward to give evidence against him. The action is therefore

justified. She thus prayed for dismissing the writ petition.

7. Having heard the parties, it is clear from the record that in six cases, the petitioner is acquitted. The offences are registered. Out of nine offences, eight offences are registered prior to 2015. There is only one offence registered in the year 2023. Action under Section 110 (e)(g) of the Cr.P.C. was also taken only in the year 2003. Considering these aspects, this Court finds that there is no criminal record against the petitioner for almost eight years. This factor was not properly considered by the authorities. It is also seen that the orders were passed externing the petitioner from entire Dhule District. It is seen that all the offences registered only with City Police Station, Dhule, the order also appear to be excessive for this reason.

8. Considering the above, this Court finds that petition deserves to be allowed, and it is hereby allowed. Hence, the following order:

ORDER

- (i) Writ Petition stands allowed in terms of prayer clause (B).

(ii) The impugned order of externment dated 3rd May 2024 passed by the learned Sub-Divisional Officer, Dhule and confirmed by the learned Divisional Commissioner, Nashik Division Nashik in Externment Appeal No.108 of 2024 vide order dated 22nd October 2024, are hereby quashed and set aside.

(iii) Criminal Writ Petition stands disposed off.

[KISHORE C. SANT, J.]