



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

CRIMINAL WRIT PETITION NO.2013 OF 2024

Shubham Rajkumar Khelbude,
Age 24 years, Occu. Education,
R/o 2-12-351, Harish Apartment,
Flat No.60, Bandaghat, Nanded,
Taluka and District Nanded.

... **Petitioner.**

Versus

1. The Divisional Commissioner,
Chha. Sambhajinagar,
Divisional Commissioner Office at
Chha. Sambhajinagar,
Tq. and District Chha. Sambhajinagar.
2. The Superintendent of Police,
Superintendent of Police Office,
Nanded, District Nanded.
3. Police Inspector,
Police Station Ardhapur,
Tq. Ardhapur and District Nanded. ... **Respondents.**

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Advocate for Petitioner : Mr. Vaibhav D. Karande.
APP for Respondents-State : Mr. S. M. Ganachari.
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CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : 08.04.2025

PRONOUNCED ON : 16.04.2025.

JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The petitioner has invoked jurisdiction of this Court under Article 227 of the Constitution of India for challenging judgment and order dated 13.08.2024 passed by respondent No.1/Divisional Commissioner confirming order of externment for one year passed by respondent No.2/Superintendent of Police under Section 55 of Maharashtra Police Act (hereinafter referred to as “Act” for sake of brevity and convenience). He is found to have indulged in illegal activities creating terror in the vicinity being part of a gang. His activities are found to be detrimental to the public peace. Hence, he is directed to remove himself outside of the area of Nanded district for one year. The subjective satisfaction is founded on offence Crime No.174 of 2019 and Crime No.282 of 2023.

3. Learned counsel Mr. V. D. Karande for the petitioner submits that both the orders are illegal and there was no material to resort to action under Section 55 of the Act. It is submitted that petitioner was acquitted in Special Case No.94 of 2020 emanating from Crime No.174 of 2019 and he was enlarged on bail in Crime No.282 of 2023. It is submitted that he is not concerned with any gang. Impugned action is arbitrary and perverse because documentary evidence is not taken into account. It is further submitted that impugned

action was taken against him without following due procedure of law. There is a violation of principle of natural justice.

4. Per contra, learned APP supports impugned order on the basis of affidavit-in-reply. He would submit that all the members of the gang were proceeded along with the petitioner and they were externed. It is submitted that reply given by the petitioner to the notice does not spell out any ground or mitigating circumstances. It is further submitted that due procedure of law was followed and after extending opportunity, impugned action was taken. It is submitted that the material available against the petitioner is serious in nature to justify the externment.

5. Having considered rival submissions of the parties, externment order under challenge is founded on Crime No.174 of 2019 and Crime No.282 of 2023. Petitioner was acquitted in Special Case No.94 of 2020 arising out of Crime No.174 of 2019. Another offence has been investigated and charge sheet has also been filed and matter is at the stage of framing of the charge.

6. Interestingly, order dated 17.05.2024 passed by respondent No.2 shows that six persons were proceeded with

including the petitioner for action under Section 55 of the Act. The selfsame offences are pitted against them also as they are shown to be co-accused in those offences. In case of few of them, more offences are pressed into service. This is indicative of the fact that petitioner and other extennee operate a gang and indulged in illegal activities as a member of gang. The offences are serious in nature which are covered by Chapter XII, XVI and XVII of the IPC.

7. Petitioner was acquitted from the first offence vide judgment and order dated 18.10.2023. But, that does not mitigate his detrimental activity because he is still facing prosecution in Crime No.282 of 2023, registered with Ardhapur Police Station. The offence is serious in nature showing road robbery with the use of weapon by forming a gang. I find that there is cogent material available against him for taking action under Section 55 of the Act.

8. The proposal was submitted by Police Inspector on 14.12.2023. A report was prepared by Sub Divisional Police Officer on 02.04.2024. Notice was issued on 15.02.2024 to the petitioner. He filed reply on 16.02.2024. Thereafter, petitioner was called upon to remain present before the competent authority. After extending opportunity of hearing, impugned

order was passed on 17.05.2024. I do not find that there is any procedural lapses or violation of principles of natural justice.

9. After considering relevant material, both the authorities have concurrently held that petitioner is liable to be externed. I do not find any material irregularity or perversity in passing impugned order. Considering magnitude of the activities and the potential of the petitioner and the others, he is externed from entire Nanded District. Both the authorities have rightly arrived at the conclusions. I find that no case is made out by the petitioner to cause any indulgence.

10. Criminal writ petition is dismissed. Rule is discharged. No order as to costs.

(SHAILESH P. BRAHME, J.)

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vmk/-