

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No.2263 of 2025

Toufik Imtiyaz Kureshi
Age – 23 years, Occ – Business
R/at Kureshi Nagar, Mangalwar
Peth Phaltau, Dist. Satara

... Petitioner

versus

1. The State of Maharashtra
Through the Superintendent
of Police, Satara Dist, Satara.

2. The Divisional Commissioner (Revenue)
At Pune, Division Pune

... Respondent

Mr Ranjeet M Pawar, for the petitioner.
Ms Sangita Phad, APP, for the respondents/ State.

**Coram: R.N. Laddha, J.
Date: 28 April 2025**

P.C.:

Rule. Rule made returnable forthwith. Heard finally at the request and with the consent of the learned Counsel for the parties.

2. By this petition, the petitioner seeks to challenge to the externment order dated 8 October 2024 passed by respondent No.1 and the order dated 7 February 2025 passed by respondent No.2 in Externment Appeal No.220 of 2024, whereby the petitioner was externed under Section 55 of the Maharashtra Police Act, 1951 ('the Act') for a period of two years from Satara district.

3. Mr Ranjeet Pawar, the learned Counsel appearing on behalf of the petitioner, contends that the impugned orders are plagued by significant illegality and blatant arbitrariness. He points out that the order issued by the externing authority is based on material that does not satisfy the necessary threshold of reasonable justification required under Section 55 of the Act. According to him, Section 55 of the Act specifically permits action against gangs or groups of individuals involved in unlawful activities, and thus, it is essential to demonstrate the involvement of each member of such a group, rather than relying on vague or inadequate grounds. The authority must also show that each member of the gang or group engaged in similar conduct, and final action is required to be taken against all such members accordingly. The learned Counsel further

argues that the material relied upon by the respondents to extenuate the petitioner significantly differs from what was used in relation to other alleged members of the gang. Furthermore, the learned Counsel raises concerns about not being provided with relevant details that could have been used to challenge the authority's satisfaction. Mr Pawar further submits that the petitioner has a right to be informed of all material relied upon, as such a right is fundamental to the principles of natural justice.

4. Ms Sangita Phad, the learned Additional Public Prosecutor representing the respondents/ State, opposes the petitioner's plea and refers to the reasons recorded in the impugned orders. According to the learned APP, the cumulative impact of the extenuate's behaviour over time on the residents, where the petitioner and the other members of the gang had instilled a reign of terror, should be taken into account.

5. This Court has given anxious consideration to the rival contentions canvassed across the Bar and perused the records.

6. Section 55 of the Act deals with the dispersal of gangs and

bodies of persons and reads as follows:

“55. Dispersal of gangs and bodies of persons. Whenever it shall appear in Greater Bombay and in other areas in which a Commissioner is appointed under Section 7 to the Commissioner and in a district to the District Magistrate, the Sub-Divisional Magistrate or the Superintendent empowered by the State government in that behalf, that the movement or encampment of any gang or body of persons in the area in his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such officer may, by a notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such officer thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in the order to prevent violence or alarm or disperse and each of them to remove himself outside the area within the local limits of his jurisdiction or such area and any district or districts, or any part thereof, contiguous thereto within such time as such officer shall prescribe, and not to enter area (for the areas and such contiguous districts, or part thereof as the case may be,) or return to the place from which each of them was directed to remove himself.”

7. A detailed examination of Section 55 highlights a recurring theme of close scrutiny of collective involvement and coordinated actions among the individuals concerned. The section begins by referring to a gang or group, underlining the risks posed by their movements or encampments, and concludes with a directive for the removal of each member of such a collective. This emphasis on shared responsibility forms the essence of the provision. As a result, Section 55 of the Act is applicable only when it is established that the individuals are acting as a part of a gang or group.

8. In the present case, the offence cited by the respondents to extern the petitioner does not reflect any involvement of the petitioner as a part of a gang. The record does not reveal the existence of any common thread connecting the petitioner with the remaining other alleged gang members. Additionally, there is a noticeable difference in the nature and extent of the offences recorded against all the alleged gang members, including the petitioner. The criminal activities attributed to the alleged gang members appear to be more individualistic than collective. The respondents failed to demonstrate any coordinated or group-based criminal conduct. Furthermore, the

impugned orders lack any material indicating that the petitioner is a leader or an active participant within a gang or body of persons. In the absence of such crucial findings, the fundamental requirement under Section 55 of the Act, that action must be taken against individuals acting together as a gang, remains unfulfilled.

9. Consequently, given the absence of any material pointing to collective criminal activity and the lack of material connecting the petitioner to any gang, the impugned orders cannot be sustained. On this ground alone, they are liable to be quashed and set aside *qua* the petitioner.

10. In the result, the petition stands allowed and the impugned orders are hereby quashed and set aside *qua* the petitioner.

(R.N. Laddha, J.)