

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

CRIMINAL WRIT PETITION NO.1831 OF 2025

Shafeeque Ahmad Abdul Majeed

Age : 70 Years, Occupation : Unani,

Residing at : Survey No.158/2,

House No.141, Street No.7, Hakimnagar,

Malegaon, Taluka : Malegaon,

District : Nashik, Maharashtra.

...Petitioner

Versus

1. **The State of Maharashtra**

Through Home Secretary,

Having Office at Mantralaya, Mumbai.

2. **The Sub-Divisional Magistrate,**

Malegaon Sub-Division, Malegaon,

District : Nashik.

3. **Senior Inspector of Police**

Azadnagar Police Station,

Malegaon, District : Nashik.

...Respondents

Mr.Bhushan U. Deshmukh:-	Advocate for Petitioner.
Mr.B.V.Holambe – Patil:-	APP for Respondents – State.
Mr.R.B.Koli : PSI:-	Azadnagar Police Station, Taluka : Malegaon, District : Nashik.

CORAM : S. M. MODAK, J.

DATE : 7th JULY 2025

P.C. :-

1. Heard learned Advocate for the Petitioner and learned APP for Respondents–State.

2. The present Petitioner is externed from the Nashik District for 6 months as per the order passed by the Sub-Divisional Officer – Malegaon Sub-Division. The order came to be passed on 28th February 2025. The period which remains is about 2 months.

3. The Petitioner is aged 70 years of old. The following submissions are made on his behalf:-

- (a) The notice and the externment order came to be passed by referring to Section 57(a) of the said Act. While framing the points, the Officer has framed point No.2. One of them falls under the provisions of Section 56(1)(a) of the Act but there is no notice.
- (b) As per Section 56(1)(a), a person can be externed if his movements or acts are alarming to cause danger or harm to person or property.
- (c) Even though in the show cause notice, there is a reference of registration of the offences, those details are not given in the show cause notice and hence, it caused prejudice to the Petitioner.
- (d) The contention is, when the report was given by the local Police Station on 9th October 2024 and show cause notice was issued on 25th October 2024 whereas, the impugned order came to be passed on 28th February 2025.

4. As against this, learned APP made the following submissions:-

- (a) Even though there is no reference of Section 56(1)(a) in the

show cause notice, in the concluding paragraph, there is a reference of registration of the offences at Azadnagar Police Station.

- (b) He invited my attention to the condition No.3 in the impugned order. It requires the Petitioner to give attendance once in month to the nearest Police Station within whose territory the Petitioner will reside after the externment order. According to him, the Petitioner has not informed to any Police Station.
- (c) He placed on record the report given by Azadnagar Police Station to learned APP informing registration of 5 offences.

5. As per the provisions of Section 57 of the Maharashtra Police Act, a person can be removed from a particular area if he is convicted of certain offences mentioned therein. There is no dispute that the Petitioner is convicted for the offence punishable under Section 326 and other Sections of the Indian Penal Code, 1860 (“IPC”). He falls under the category laid down under Section 57 of the Act. Whereas, Section 56(1)(a) talks about the movement of a person alarming to cause harm, danger to person or property then a person can be removed from a particular area.

6. It is no doubt true, in the show cause notice, there is no reference of Section 56(1)(a). There is a reference that there are offences registered at Azadnagar Police Station. The details which now are given

are not mentioned in the show cause notice.

7. Whereas, in the impugned order, the learned Sub-Divisional Officer has framed two points. **The point No.1** deals with Section 57(a) **whereas, point No.2** does not refer to 56(a) Section but the wordings are as per Section 56(1)(a). If there are offences registered against a person, there is every possibility that due to these activities, the persons in the vicinity may apprehend fear. The issue is whether by mere mentioning that there are offences registered, there will be sufficient compliance of Section 56(1)(a). Learned APP submitted that in fact the Petitioner has not informed this Court about registration of offences.

8. It is true that when a person is externed, there will be restrictions i.e. right to move in particular area. It has got certain consequences. It is also true that there is purpose of issuance of show cause notice. It gives an opportunity to put forth his case. I think those details of offences need to be mentioned in the show cause notice. Because if those details are given, it will put to the notice of the proposed externe which are the offences on the basis of which it can be said that there will be alarm in the mind of the public. So I feel that certainly prejudice is caused to the Petitioner.

9. I am not impressed by other points because there can be a show cause notice only when there is a report submitted by the local Police Station. Even I am not impressed by the arguments by learned APP about non-compliance of condition No.3 about not giving of attendance to the concerned Police Station. Even though it is true that Petitioner does not claim that he has given attendance but this condition needs to be complied with only when the impugned order can sustain in the eyes of law. As said above, the order cannot be sustained. So, the Petitioner cannot be blamed for not giving attendance to the Police Station. Hence the following order:-

ORDER

- (i) The Petition is allowed.
 - (ii) The **order dated 28th February 2025** passed by the Sub-Divisional Officer – Malegaon Sub-Division is hereby **quashed and set aside.**
10. The **Writ Petition is disposed of accordingly.**

[S. M. MODAK, J.]