

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

CRIMINAL WRIT PETITION NO.1950 OF 2025

Ashish Bansiram Salunkhe

Age : 27 Years, Occupation : Unemployed,

Residing at : Nagthane, Satara – 415 519.

...Petitioner

Versus

1. **The State of Maharashtra**
(Through Principal Secretary, Home
Department, Government of Maharashtra)
 2. **The Divisional Commissioner cum
Appellate Authority, Pune Division, Pune**
Bund Garden Road, Camp, Pune – 411 001.
 3. **The Superintendent of Police,**
Malhar Peth, Satara District, Satara – 415 002.
 4. **The Inquiry Officer cum Sub-Divisional
Police Inspector, Satara City Police Station**
– 415 501.
- ...Respondents**

Ms.Uroosa Shaikh a/w Mr.Ritesh Kalra i/b. Vanguard Law Group:-	Advocates for Petitioner.
Mr.Nitin B. Patil:-	APP for Respondents-State.
Mr.Rafiq Baban Quazi : ASI:-	Satara Police Station.

CORAM : S. M. MODAK, J.

DATE : 23rd JULY 2025

P. C. :-

1. Heard learned Advocate for the Petitioner and learned APP.
2. The present Petitioner is described as a member of gang and he along with the other persons were externed as per the order dated 3rd October 2023 issued by the Superintendent of Police – Satara. He along with others were externed for a period of 2 years from the district Satara. He preferred an Appeal before the Divisional Commissioner-Pune. One Amar Mohite is also the Appellant. **It was dismissed on 23rd October 2024.**
3. After hearing both the sides, this Court was pleased to stay the externment order on 8th April 2025. It is submitted, after serving of the externment order dated 3rd October 2023, till the time stay is granted, **he has remained outside the limits of Satara district for almost 1 year.**
4. During arguments, learned Advocate made following submissions:-
 - (a) The materials referred in the order are falling short to consider the Petitioner as one of the gang members.
 - (b) The provisions of Section 55 of the Maharashtra Police Act, 1951 are wrongly invoked.
 - (c) Even though there may be previous offences registered against the Petitioner, there is only one offence bearing C.R. No.6 of 2023 registered at Borgaon Police Station in which all the 4 externees were implicated as Accused persons. It

was for the offence under Section 394 read with 34 of the Indian Penal Code, 1860 (“IPC”).

- (d) There is no live link between the offences referred and the action initiated.
- (e) Earlier, the Maharashtra Control of Organised Crime Act, 1999 (“MCOC Act”) was invoked against this Petitioner, however, it was dropped by the Police. There is a letter dated 4th August 2020 issued on behalf of the Director General of Police.
- (f) This circumstance is also considered by the learned Sessions Judge – Satara by granting bail in connection with C.R. No.203 of 2019. The offences are under Sections 302, 201, 364-A, 387 read with 34 of IPC.
- (g) He has also granted bail in present C.R. No.6 of 2023 on 15th March 2023 by the Magistrate Court.

5. As against this, learned APP supported the order and he made following submissions:-

- (a) Even though MCOC charges are dropped, it does not mean that the provisions of Section 55 of the said Act cannot be invoked.
- (b) The compliance under the MCOC Act stands on different footing than the compliance and fulfillment of the conditions as per Section 55 of the Maharashtra Police Act, 1951.
- (c) Learned APP justified the order on the basis of the offence

at Borgaon Police Station at C.R. No.6 of 2023.

- (d) He also supported the order on the basis of 2 statements recorded on 24th June 2023 (in respect of the incident dated 22nd June 2023) and on the basis of statement of of Witness-B recorded on 27th June 2023 (in respect of the incident dated 22nd June 2023).
- (e) Learned APP emphasized on the *modus operandi* of C.R. No.6 of 2023 and the *modus operandi* as reflected from the facts narrated by the Witnesses 'A' and 'B'.

6. It is true that the word '*gang*' is used in Section 55 of the said Act so also in Section 2(1)(f) of the MCOC Act. It is true the parameters for invocation of both the provisions are different. If "*organised crime syndicate*" indulged into activities of '*organised crime*', the provisions of MCOC Act can be invoked. The meaning of '*organised crime*' is also given in clause (e) of the said Act. Whereas, if the movement or engagement of any gang is causing danger or alarm or having unlawful designs, they can be removed from a particular area.

7. It is true, the word '*gang*' is not defined in both these Acts. Its plain meaning is to be considered. A '*gang*' can be nothing but involving more than 1 person and it further implies they are undertaking a particular activity jointly or in tandem which violates the law.

8. Coming to the facts of this case, it is true in the impugned order, there are individual offences registered against present Petitioner. They are described on Page No.43 at Sr.No.4. Following are the offences:-

<u>Sr.No.</u>	<u>C.R.No.</u>	<u>Police Station</u>	<u>Sections invoked</u>
1.	C.R. No.203 of 2019	Borgaon Police Station	302, 363, 387, 364-A, 201 r/w 34 of IPC.
2.	C.R. No.6 of 2023	Borgaon Police Station	394 r/w 34 of IPC.

9. On this background, the prosecution claims that in all there are 4 offences registered against the members of the gang. They are ranging from 2018 upto 2023. The only offence in which the Petitioner is involved along with 3 others is C.R. No.6 of 2023.

10. Apart from this offence, there are statements of Witness 'A' and 'B'. If the manner of commission of the offence in that crime and the manner of incident that took place as revealed from those statements, one can infer that the present Petitioner and others have obstructed the victim at a particular place and the concerned victim was threatened and compelled to part away certain amount. It further reveals that even weapons are used. It is pertinent to note that in those two statements, there is a reference of present Petitioner as well as other 3 members.

11. Learned Advocate for the Petitioner tried to convince me that the present Petitioner is granted bail in the two offences and the

MCOC charge is dropped. Granting of bail involves different consideration and passing of order of externment involves different consideration.

12. On the basis of these submissions, I do not think that the impugned orders can be set aside. Even learned APP has pointed out to me that after granting bail, this Petitioner has threatened the First-Informant Mr.Vijay Anandrao Jadhav of C.R.No.203 of 2019. It was on 28th December 2022. NC is also registered against him with Borgaon Police Station. This complaint fortifies the submission of learned APP that the movement of member of the gang can cause alarm to the residents.

13. However I am inclined to grant some relief to the Petitioner. The externment order is stayed by this Court on 8th April 2025. **The Petitioner has already remained outside the Satara district from the date of service of the order till the order is stayed.** The period almost comes to 1 year. As per Section 58 of the Maharashtra Police Act, maximum period is 2 years. I think, it will be in excess considering the facts and circumstances. There is no satisfaction reflected from the said order. So the duration of externment already undergone is sufficient considering the above reasons. In view of that, following order is passed:-

ORDER

- (i) The Petition is allowed.
 - (ii) The externment order dated 3rd October 2023 passed by the Superintendent of Police – Satara and the order dated 23rd October 2024 passed by the Divisional Commissioner, Pune Division are **hereby set aside**.
14. In view of the above, **the Petition stands disposed of**.

[S. M. MODAK, J.]