

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

Cri.Writ Petition No.2256 of 2025

Illahi Husain Kureshi

Age: 25 years, Occ-Business,

R/at Kureshi Nagar, Mangalwar

Peth Phaltao, Dist.Satara

..... Petitioner.

Vs.

1. The State of Maharashtra

Through Superintendent of Police

Satara, Dist.Satara.

2. The Divisional Commissioner

(Revenue) at Pune, Division Pune

..... espondents.

Mr Ranjeet Pawar for the petitioner.

Mr VN Sagare, APP for respondent/State.

Coram : R.N.Laddha, J.

Date : 28 April 2025.

P.C. :

By this writ petition, the petitioner has challenged the legality and validity of the order dated 7 February 2025 passed by the respondent No.2-Appellate Authority confirming the order passed by Respondent No.1 on 8 October 2024 externing the petitioner under Section 55 of the Maharashtra Police Act, 1951 (for short, 'the Act'), for a

period of two years from Satara district.

2. This petition has been finally heard at the stage of admission with the consent of parties. Hence, Rule made returnable forthwith.

3. I have heard Mr Ranjeet Pawar, learned Counsel for the petitioner and Mr VN Sagare, the learned Additional Public Prosecutor representing the State.

4. The learned Counsel for the petitioner asserts that the impugned orders suffer from serious illegality and manifest arbitrariness. The learned Counsel contends that the order issued by the externing authority relies upon material that falls short of meeting the threshold of justifiable satisfaction as mandated under Section 55 of the Act. It is further submitted that Section 55 specifically envisages action against a gang or a collective body of individuals engaged in unlawful activities. Consequently, it is imperative that the authority establishes the involvement of each individual member of such a gang or body rather than proceeding on generalised or insufficient grounds. Thus, each member of such a gang or group must be shown to have engaged in similar conduct, and final action must be taken against all

such members accordingly. The learned Counsel, however, contends that this is not the case here. A plain reading of the impugned order reveals that the material relied upon to extern the petitioner differs significantly from that use in relation to other alleged members of the gang. A grievance is also raised regarding the petitioner not being furnished with relevant details that could have been used to challenge the authorities satisfaction. According to the learned Counsel, 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.

5. Mr VN Sagare learned APP representing the respondent/ State has opposed the petition, citing the reasons recorded in the impugned order of externment and by the Appellate Authority. He emphasises that the cumulative impact of the externee'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.

6. With the assistance of the learned Counsel for the petitioner and learned APP, I have perused the petition

along with the documents annexed thereto, including the impugned orders.

7. Section 55 of the Act deals with the dispersal of gangs and bodies of persons. It 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.”

8. A close reading of Section 55 reveals a consistent underlying theme of collective participation and unified action against all involved. The Section opens by referencing a gang or group of individuals, emphasises the threat posed by their movement or encampment, and concludes with an order for the removal of each member of such a group. This focus on collective responsibility is fundamental to the provision and clearly reflects the legislative intent. Consequently, Section 55 of the Act applies only when individuals are demonstrated to be acting as part of a gang or group. The impugned orders show that an offence vide CR No.835 of 2022 was registered against the petitioner was of the year 2022. While an offence vide CR No.1645 of 2023 was registered against the petitioner, which, at the time of passing the externment order, was still under investigation. Beyond this single case, there is no indication of any other criminal activity involving the petitioner. Neither the documents on record nor the submissions of the learned APP point to any additional

cognisable offences linked to the petitioner, except for one non-cognisable offence, and even that does not reflect any involvement as part of a gang. Given that the action was initiated under Section 55 of the Act, the external authority also referred to criminal cases registered against other individuals alleged to be part of the same gang as the petitioner. However, there appears no common thread connecting the petitioner with the remaining other alleged gang members. The record shows that three cases have been registered against the second alleged member, Taufique Imtiaz Qureshi; three cases against the third alleged member, Arbaaz Imtiaz Qureshi and two case against the fourth alleged member Inayat Husain Qureshi. The only criminal case has been attributed to the petitioner, and even that case is not uniquely associated with gang activity. This disparity in the nature and number of offences suggests that the criminal acts attributed to the alleged gang members are more individualistic rather than collective in nature, thereby failing to demonstrate any coordinated or group-based criminal conduct.

9. Moreover, the impugned orders lack any material indicating that the petitioner is either a leader or an active

member of a gang or body of persons. In the absence of such essential findings, the fundamental requirement under Section 55, that action be directed against individuals operating collectively as a gang, remains unfulfilled. Consequently, given the absence of evidence 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.]