

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

Cri.Writ Petition No.2259 of 2025

Arbaj Imtiyaz Kureshi
Age-28 yrs, 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 Respondents.

Mr Ranjeet M Pawar for the petitioner.
Ms Manisha R Tidke, APP for respondent/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. This writ petition is filed seeking following substantive
relief :

*“(A) This Hon’ble Court may be pleased
to pass appropriate writ, order and direction*

quashing the order of externment dated 8.10.2024, passed by respondent No.1, in externment proceeding No.6/2024, 55/2625/2024 and quash and set aside order dated 7.02.2025 passed by respondent No.2 in Appeal No. Externment/Appeal/No.220/2024.”

3. The learned Counsel for the petitioner asserts that the impugned orders suffer from serious illegality and manifest arbitrariness. 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. Therefore, it is necessary that the authority establishes the involvement of each individual member of such a gang or body rather than proceeding on generalised or insufficient grounds. In the proceedings u/s 55 of the Act, 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. 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.

4. Ms MR Tidke learned APP representing the respondent/ State has opposed the petition, referring the reasons recorded in the impugned order of externment and by the Appellate Authority. According to her 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.

5. I have carefully considered the arguments advanced by both parties. With the able assistance of learned Counsel for the petitioner and learned APP, I have examined the petition, its annexures, and the reasons assigned by the respondent authorities for passing the impugned orders.

6. 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.”

7. A detailed examination of Section 55 highlights a close scrutiny recurring theme 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, clearly conveying the legislative intent. 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. In the present case, the impugned orders indicate that an offence recorded at CR No.157 of 2021, was registered against the petitioner was of the year 2021. Another offence vide CR No.1545 of 2023, was registered against the petitioner, which was still under investigation at the time of externment order was issued. The offence vide CR No.203 of 2023 was registered against the petitioner and one Inayat Husain Qureshi. However, this offence does not reflect any involvement of the petitioner as a part of a gang and there appears no common thread connecting the petitioner with the remaining other alleged gang members. Furthermore, the

record shows the disparity in the nature and number of offences registered against the all alleged members of the gang, including the petitioner. The criminal acts attributed to the alleged gang members are more individualistic rather than collective in nature and failed to demonstrate any coordinated or group based criminal conduct. 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.

8. 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.

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

[R. N. Laddha,J.]