



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 695/2025

Gajanan S/o Madhukar Ade,
Aged 35 yrs., Occ. Labourer,
R/o. Rohada, Pusad,
Tq. Pusad, Dist. Yavatmal.

...PETITIONER

VERSUS

1. The State of Maharashtra,
through its Police Station Officer,
Police Station, Khandala,
Tq. Pusad, Dist. Yavatmal.
2. Sub-Divisional Magistrate Pusad,
Tq. Pusad, Dist. Yavatmal.
3. Divisional Commissioner, Amravati,
Tq. & Dist. Amravati.

...RESPONDENTS

Mr. K.S. Narwarde, Advocate for petitioner.
Mrs. S. V. Kolhe, APP for respondent Nos. 1 to 3.

CORAM : M. M. NERLIKAR, J.

DATE : 22.09.2025

ORAL JUDGMENT :

Heard.

2. Issue Rule, returnable forthwith. Mrs. S.V. Kolhe, learned Additional Public Prosecutor waives service of notice for respondent Nos. 1 to 3. With consent of learned counsel for the parties, the petition is taken up for final hearing.

3. By the present petition filed under Articles 226 and 227 of the Constitution of India, the petitioner is seeking to quash and set aside the order dated 11.08.2025 passed by respondent No.3 – Divisional Commissioner, Amravati as well as order dated 13.06.2025 passed by respondent No.2 Sub-Divisional Magistrate, Pusa.

4. I have heard learned counsel for the petitioner as well as the learned APP for respondent Nos. 1 to 3. The learned counsel for the petitioner submits that the activities of the petitioner are restricted only to Khandala Police Station, however, the petitioner was externed from four districts i.e. Yavatmal, Hingoli, Washim and Nanded for one year which is excessive in nature and there are no reasons assigned to show that it is necessary to extern from four districts. Further, there is no compliance of Section 56(1)(a)(b) of the Maharashtra Police

Act, 1951 (“Act of 1951”) as there is no reference of in-camera statement in the impugned orders.

5. He further submits that though the inquiry under Section 59(1) of the Act of 1951 was conducted, wherein there is reference of two in-camera statements, however respondent No.2 has not referred anything about the in-camera statements in the order under challenge. He further submits that even on merits, stale offences are taken into consideration as the last offence was said to have been committed on 26.08.2024. Whereas the order was passed by respondent No.2 on 13.06.2025 and therefore, he submits that there is no live-link.

6. On the other hand, learned APP submits that the petitioner is a habitual offender. He has committed as many as seven crimes. Not only that, the chapter proceedings have also been initiated. She further submits that the last crime was committed by the petitioner on 26.08.2024, under the Maharashtra Prevention of Gambling Act, 1887 (“Gambling Act, 1887”) She further submits that even if that crime is ignored, the petitioner has still committed Crime No. 228/2024 for the

offence punishable under Sections 324, 504, 506 of the Indian Penal Code (“IPC”) on 28.06.2024 which could be considered as the last crime. As the proposal is moved on 17.03.2025, and therefore, it cannot be said that the live-link is snapped. She further relied on the other offence which is committed by the petitioner bearing Crime No. 138/2019 for the offence punishable under Sections 353, 34 of the IPC read with Sections 4, 25 of the Arms Act.

7. She further submits that, the petitioner is a sand smuggler and he is excavating the sand from the river bank illegally. He has restrained public servants while discharging their duties and therefore, she submits that the order has been passed by giving sufficient reasons. The Divisional Commissioner i.e. respondent No.3 has considered everything and thereafter rejected the appeal filed by the petitioner.

8. Upon perusal of both, the impugned orders as well as the record placed before this Court, it appears that the petitioner was externed from four districts for one year. It also

appears from the reasoning part of the order dated 13.06.2025 passed by respondent No.2, that there are absolutely no reasons for externing the petitioner from four districts. Further, it appears from the record that the activities of the petitioner are restricted only to the extent of Khandala Police Station, whereas he was externed from four districts which is in my opinion, is excessive.

9. As was argued by the learned counsel for the petitioner that in order to satisfy the provisions of Section 56(1)(b) of the Act of 1951, there has to be satisfaction of the respondent No.2 that the witnesses are not coming forward to give evidence, however, even this part is missing from the order. As could be seen from the inquiry under Section 59 of the Act of 1951 that though two confidential statements of witnesses are recorded and the report is forwarded to the respondent No.2 by the Sub-Divisional Police Officer, there is still no reference to these two in-camera statements and therefore, it could be said that there is no subjective satisfaction, so also, there is no satisfaction of the ingredient contained in Section

56(1)(b) of the Act of 1951 and therefore, the very base to extern the petitioner under Section 56(1)(b) of the Act of 1951 is missing and hence, the order is bad-in-law.

10. It further appears from the record that the last crime committed by the petitioner is under Section 12(a) of the Gambling Act, 1887 on 26.08.2024. However, as held by this Court the provisions of the Gambling Act, 1887 cannot form the basis to extern the petitioner and therefore, this crime will have to be ignored. As was submitted by the learned APP that even if the crime under the provision of the Gambling Act, 1887 is ignored, the petitioner has committed last crime on 28.06.2024 which is for the offence punishable under Section 324, 504, 506 of the IPC and the proposal was submitted on 17.03.2025 and therefore, she submits that there is a live-link. This Court time and again has taken a view that such a delay frustrates the very object of externment initiated against the petitioner. It is further to be noted that even if this crime is considered which is registered on 28.06.2024, the order is passed on 13.06.2025 which is almost after one year and

therefore, it can be said that, there is no live-link between this crime and the order of externment. It could be seen further from the record that stale offences like the offence of 2019, 2020, 2021, 2022, and 2024 are taken into consideration. In my opinion, all these offences can not form the basis for externment of the petitioner for the reason that, these were registered long back and those offences cannot form live-link and therefore, the live-link is snapped.

11. Considering the above facts and circumstances, the order passed by the respondent No.2 is bad-in-law and also, excessive.

12. Further, respondent No.3 Divisional Commissioner, Amravati has considered all the crimes, without considering whether there is satisfaction of Section 56(1)(b) of the Act of 1951 so as to pass externment order. Therefore, both the authorities have failed to apply their mind to the facts and circumstances of the case. The externment proceedings are the proceedings wherein the right of the petitioner guaranteed under Article 19(1)(d) of the Constitution of India is curtailed

and therefore, the same is to be curtailed by following the procedure established by law. The authorities must construe these provisions in stricter sense. It appears from the record that, the authorities have acted in casual manner. Not only that, the respondent No.3 Divisional Commissioner has also not taken into consideration anything and has passed a cryptic order. Therefore, considering the above facts and circumstances, in my opinion, both these orders cannot sustain in law and accordingly order dated 11.08.2025 passed by respondent No.3 – Divisional Commissioner, Amravati as well as order dated 13.06.2025 passed by respondent No.2 Sub-Divisional Magistrate, Pusad are quashed and set aside.

13. Rule is made absolute in above terms.

(M. M. NERLIKAR , J.)

Gohane