



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.746/2025

(Pawan Mohan Nichat Vs. Divisional Commissioner, Amravati Division, Amravati & ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D.M. Totey, Advocate for petitioner.

Mr. Bhagwan M. Lonare, APP for respondent Nos.1to4.

CORAM: M. M. NERLIKAR, J.

DATED : 09/10/2025.

Heard the learned counsel for the petitioner and
learned APP for the State.

2. This is one more classic example of depriving the liberty guaranteed under Article 19(1)(d) of the Constitution of India, without following proper procedure laid down under the Maharashtra Police Act. There is an arbitrary exercise of powers which can be gathered from the present facts and circumstances of the case. The petitioner was externed by an order dated 25.02.2025 by the Deputy Police Commissioner, Zone-1, Amravati City. The order was passed under Section 56(1)(a)(b) of the Maharashtra Police Act ("Police Act"). The basis for externment which appears from the order is that as many as five crimes are registered against the petitioner which are as under:

अक्र	पो.स्टे.	अप. नं.	कलम	दिनांक	गुन्ह्याची स्थिती
1.	गाडगेनगर	1050/2022	279, 341, 186, 189 भादवि सह कलम 65(ई) महाराष्ट्र दारूबंदी कायदा सह कलम 184, 185 मोटर वाहन कायदा	09/09/2022	न्याय प्रविष्ट
2.	गाडगेनगर	1363/2022	354, 354(ड), 452, 506(ब) भादवि	18/11/2022	न्याय प्रविष्ट
3.	गाडगेनगर	1396/2023	363 भादवि	30/10/2023	न्याय प्रविष्ट
4.	गाडगेनगर	640/2024	333 भा.न्या.स	29/07/2024	पोलीस तपासावर
5.	गाडगेनगर	1093/2024	78, 296, 351(3) भा.न्या.स	25/12/2024	पोलीस तपासावर

3. It further appears that preventive action under Section 129(e)(g) of the Bharatiya Nagarik Suraksha Sanhita 2023 was also taken. In para 2 of the impugned order it is stated that witnesses are not willing to come forward to depose or to lodge complaint against the petitioner. Considering this fact, the respondent No.2 has come to the conclusion that the petitioner is required to be externed for a period of 15 months by exercising power under Section 56(1)(a)(b) of the Police Act. Even the appeal preferred by the petitioner under Section 60 of the Police Act was rejected. Hence the present petition.

4. The learned counsel for the petitioner submits that the order is excessive in nature and there are no reasons mentioned in the impugned order for ordering externment.

He further submits that the in-camera statements are not recorded, still in para 2, it is mentioned that the witnesses are not willing to come forward. Therefore, there is no subjective satisfaction arrived at by the authority.

5. On the other hand, the learned APP submits that after going through the material placed before the Externing Authority, he has passed the order and the order is a reasoned order. Further, the said order was confirmed by the Appellate Authority i.e. the respondent No.1. It was also submitted that it cannot be said that 15 months is an excessive period, considering the nature of allegation and the offence committed by the petitioner against women, the petitioner has become a menace to the society and therefore, the respondents have rightly passed the order.

6. Upon considering the rival submissions as well as record placed before this Court, at the outset it is necessary to mention at this juncture that under Section 59 of the Police Act, notice was issued to the petitioner on 23.01.2025, wherein except chart of crimes which are registered against the petitioner, nothing else has been mentioned. Section 59 of the Police Act mandates conducting of inquiry by issuing notice to the petitioner. The notice which is contemplated under Section 59 should be in writing, making out a case by incorporating the gist of the allegations made in the FIR. The object and purpose of Section 59 of the Police Act, is to give a reasonable opportunity of tendering explanation to the externee regarding the general nature of material allegations which

are mentioned in the notice. Upon perusal of the notice, except table of crimes, there is absolutely nothing which is mentioned and can be called as general nature of allegations which is incorporated in the notice.

7. Upon perusal of the impugned order dated 25.02.2025 passed by respondent No.2, it appears that the respondent No.2 has invoked the powers under Section 56(1)(a)(b) of the Police Act. However, the notice under Section 59 of the Police Act does not spell out that the petitioner is to be externed under Section 56(1)(b), however it only states to show cause as to why there should not be externment under Section 56(1)(a)(b) of the Police Act. Therefore, what is not stated in the notice dated 23.01.2025 issued by the respondent No.3, is however not stated in the impugned order dated 25.02.2025 issued by respondent No.2 and therefore, it can be said that the opportunity of hearing to the petitioner is denied. Even otherwise, the notice under Section 59 of the Police Act issued by respondent No.3 is a faulty notice as it does not comply with the said provision. Further, Section 56 of the Police Act require supplying the copies of in-camera statements, however in the impugned order in para 2, it is stated that no witness is willing to come forward to give statement against the petitioner. Hence, it is not clear whether in-camera statements are recorded or not. Even if the notice under Section 59 of the Police Act is perused, there is no mention of those in-camera statements and therefore, there is no compliance of even Section 56(1)(a)(b) of the Police Act.

8. Upon perusal of the impugned order, it only speaks about non-compliance and nothing more than that. It is painful to mention here that when the liberty of a person is at stake, it was expected from the officials dealing with such matters to be sensitive to the fact that they are dealing with personal liberty of the person. However, the order impugned was passed mechanically, without application of mind. It is further to be noted that the petitioner had filed his say to the notice under Section 59 of the Police Act, wherein he has specifically mentioned about crime numbers which are at serial Nos. 2, 3 and 5 that those crimes arising out of love affair between the petitioner and girl, was ignored.

9. It would not be out of place to mention at this juncture that all these factors which are discussed above have not been considered by the respondent No.1. In fact, both the orders are cryptic in nature.

10. In view of above, there is no alternate option left with me but to quash both the orders, hence the following order:-

(I) Petition is allowed.

(II) This Court hereby quashes and set aside the order dated 25.02.2025 passed by respondent No.2, Deputy Police Commissioner, Zone1, Amravati and order dated 03.09.2025 passed by respondent No.1 Divisional Commission, Amravati Division, Amravati in appeal

No.16/2025/MPA,1951 / U-60 / externment / GB-
7/2025/ Amravati

11. Petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)

Gohane