

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

CRIMINAL WRIT PETITION NO. 831/2025

(Ankish @ Gulam S/o. Sanjay Turkel Vs. The State of Maharashtra & ors.)

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

Court's or Judge's orders

Mr. P. Kunthe, Advocate for petitioner.
 Mr. Bhagwan M. Lonare, APP for respondent Nos. 1 to 5.

CORAM: M. M. NERLIKAR, J.

DATED : 17/11/2025.

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

2. The petitioner challenges the order dated 11.02.2025 passed by respondent No.3 Deputy Commissioner, Zone No.2, Nagpur City, Nagpur, wherein the petitioner was externed under Section 56(1)(a)(b) of the Maharashtra Police Act ("the Police Act") for a period of one year from the Commissionerate Area of Nagpur City and the order dated 23.09.2025 passed by respondent No.2, Divisional Commissioner, Nagpur, thereby dismissing appeal No.54/2025 preferred by the petitioner.

3. The learned counsel for petitioner submits that respondent No.3 has relied on four offences which are registered against the petitioner. He submits that though four offences are registered, he was acquitted from two offences. However, even those offences are considered by the Externing Authority. The following offences are registered against him:-

Sr. No.	Police Station	Crime No.	Registration Date & Time	Court Case No. & date	Present Status
1.	Gittikhadan	165/2018, Sections 307, 302, 34 of the Indian Penal Code, Sections 4 & 25 of the Arms Act & Section 135 of the Maharashtra Police Act.	20.07.2025 20.41 hrs.	3625/2018 16.10.2018	Acquitted
2.	Sitabuldi	96/2020, Section 307, 326, 324, 34, 143, 147, 148 of the Indian Penal Code & Section 135 of the Maharashtra Police Act.	15.02.2020 21.17 hrs.	1268/2020 15.07.2020	Pending
3.	Sitabuldi	365/2020, Section 307, 201, 143, 147, 148, 149, 323, 326 of the Indian Penal Code and Section 4 & 25 of the Arms Act.	05.09.2020 04.50 hrs.	3938/2020 22.12.2020	Acquitted
4.	Sitabuldi	430/2024 Section 12(A) of the Maharashtra Gambling Act.	20.05.2024 07.55 hrs.	11948/2024 21.08.2024	Pending.

3. The learned counsel for the petitioner submits that in-camera statements which are recorded, are word to word same in respect of both the witnesses, therefore those

in-camera statements cannot be relied upon as it is not natural statements of the person as shown to be recorded. He further submits that after going through the order, it appears that the order is nothing, but non-application of mind. He submits that he has preferred appeal, however it was dismissed without consideration of the statements of the present petitioner and without considering the record. Accordingly, he prayed for quashing the said impugned orders.

4. On the other hand, the learned APP submits that the petitioner is involved in serious crime of attempt to commit murder. He further submits that in-camera statements show that he is a habitual offender and the witnesses are not coming forward to give evidence against him. After considering the material and subjectively satisfying himself, respondent No.3 has passed the order. Not only that, there are concurrent findings against him and therefore, prayed to reject the petition.

5. After hearing both sides, it appears that an offence was registered in the year 2018 i.e. Crime No.165/2018 for the offence punishable under Sections 307, 302, 34 of the Indian Penal Code read with Section 4, 25 of the Arms Act and Section 135 of the Police Act. In this offence, the petitioner was acquitted. The second crime registered against him is Crime No. 96/2020 for the offence punishable under Sections 307, 326, 324, 34, 143, 147, 148 of the Indian Penal Code and Section 135 of the Police Act. This crime was registered in the year 2020 and chart

shows that it is still pending. Third case i.e. Crime No. 365/2020 was also registered under Sections 307, 201, 143, 147, 148, 149, 323, 326 of the Indian Penal Code and Sections 4 and 25 of the Arms Act on 05.09.2020. However, it culminated into acquittal of the petitioner. The last crime was registered i.e. Crime No. 430/2024 under Section 12(A) of the Maharashtra Gambling Act and it was registered on 20.05.2024 which is pending with the Court. From perusal of the criminal record of the petitioner, it appears that out of these four crimes, in two crimes i.e. Crime No. 165/2018 and Crime No.365/2020, he was acquitted, however the offence of the year 2020 i.e. Crime No. 96/2020 and crime No.430/2020 are pending for adjudication. Therefore, while considering, it is necessary to mention at this juncture that before passing the order of the externment, respondent No.3 ought to have considered the acquittal of the petitioner in two crimes. Further, it is to be noted that crime No.96/2020 was registered in the year 2020 which is a stale offence and live link is snapped between the order of the externment and the registration of the said case. The fourth crime was registered under the Maharashtra Gambling Act which cannot form the basis to extern the petitioner as per the settled law.

6. Now, coming to in-camera statements. After perusal of in-camera statements, it appears that both in-camera statements i.e. A and B are word to word same, even punctuation are appearing in both the statements at the same place. Therefore, whether in-camera statements

are recorded as per statements of those witnesses is doubtful and therefore, it cannot be believed that the Police Officials have recorded those statements.

7. The Externig Authority absolutely failed to apply its mind to material placed before it, therefore, it could be safely said that respondent No.3 has not applied mind to the case and committed gross error while externig the petitioner.

8. Even in appeal preferred by the petitioner, the Externig Authority failed to consider the above aspect without applying the mind and dismissed the same.

9. For the reasons mentioned above, the petition deserved to be allowed, hence the following order:-

ORDER

(I) Writ Petition is allowed.

(II) The order dated 11.02.2025 passed by respondent No.3 and order dated 23.09.2025 passed by respondent No.2 are hereby quashed and set aside.

10. Petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)