



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

CRIMINAL WRIT PETITION NO. 1027/2024

Sachin s/o. Rambabu Mahato

Vs.

State of Maharashtra and Anr.

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

Court's or Judge's orders

Mr. Suyog Deshpande, Advocate for Petitioner.
Mr. S. S. Doifode, A.P.P. for Respondents/State.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 12/02/2025.

. The petitioner suffered an externment order dated 28.11.2024 in exercise of powers under Section 55 of the Maharashtra Police Act, 1951 based on an offence being Crime No.389/2023 punishable under Sections 326, 506 and 34 of the Indian Penal Code and Crime No.222/2014 punishable under Section 324 of the Indian Penal Code.

2. As far as Crime No.389/2023 is concerned, which is punishable under Sections 326, 506 and 34, the other co-accused Ravi Ganpat Varma and Nikhil Khamman Varma are not shown to be an accused with other six accused persons, who are led by one Shubham @ Nimbu Gajanan Nimbulkar against whom there are about more than five offences.

3. The fact remains that as far as Crime No.222/2014 punishable under Section 324 of the Indian Penal Code is concerned, the petitioner was not offered any hearing in compliance with provisions of Section 59 of the Maharashtra Police Act, 1951.

4. Apart from above, the offence Crime No.389/2023 cannot be said to have been committed by the petitioner in a collective action or concerted action along with other six members but for two Varma, who are named as co-accused in Crime No.389/2023.

5. In such an eventuality, it cannot be inferred that the petitioner was a gang member and a dangerous person for the purpose of exercising powers under Section 55 of the Maharashtra Police Act, 1951.

6. Though the learned Additional Government Pleader Mr. Doifode has sought support from the judgment in the matter of *Mohan s/o. Sakharam Kharat & Ors. Vs. The State of Maharashtra & Ors.* reported in *2021 ALL MR (Cri) 2766* particularly paragraph 16, we are already dealt with the fact about there being absence of a collective and/or a concerted action in the capacity of member of a gang. Rather it is reflected from the record that the petitioner has considered to have been involved in an isolated offence Crime No.389/2023.

7. As far as the in-camera statements are concerned, though the same contains the names of the petitioner along with the two Varma, who are shown to be co-accused in Crime No.389/2023 and other six accused persons, the said statement is vague in nature. No specific role is attributed to the petitioner in the said in-camera statements.

8. Paragraph 18 of the aforesaid judgment, in the matter of **Mohan Kharat** (*supra*) substantiates the aforesaid view taken by this Court.

9. In that view of the matter, the petition stands allowed.

10. The order impugned dated 28.11.2024 passed in exercise of powers under Section 55 of the Maharashtra Police Act, 1951 is hereby quashed and set aside.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)