Reserved On : 26/11/2025
Pronounced On : 19/01/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (AGAINST ORDER OF EXTERNMENT) NO. 13028 of 2025

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ASHRAFBHAI JUMABHAI KHAFI
Versus
STATE OF GUJARAT & ORS.
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Appearance:
NABIL O BLOCH(7953) for the Applicant(s) No. 1
MS JIRGA JHAVERI, APP for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2,3
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CORAM: **HONOURABLE MR.JUSTICE UTKARSH THAKORBHAI DESAI**

Date : 19.01.2026

CAV ORDER

1. By filing the present petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

> *"(A) quash and set aside the Externment Order bearing No.HADPARCASE/REG.06/2025 dated 25.07.2025 passed under Section 56(a) of the Gujarat Police Act 1951 passed by Sub Division Magistrate Jamnagar(City) at Annexure – A to this Petition and further be pleased to allow Petitioner to enter in the Jamnagar City forthwith, and*
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> *(B) pending admission and final disposal of this petition, the Honourable Court may further be pleased to stay the Externment Order bearing No. HADPARCASE/REG.06/2025 dated 25.07.2025 passed under Section 56(a) of the Gujarat Police Act 1951 passed by Sub Division Magistrate Jamnagar(City) at Annexure – A to this Petition and further be pleased to allow Petitioner to enter in the Jamnagar City forthwith, and*
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> *(C) grant any other relief or pass any other notice, which the Honourable Court may consider just and proper in the*

facts and circumstances of the case and in the interest of justice."

2. By virtue of this petition, the applicant has challenged the order of the Sub-Divisional Magistrate of Jamnagar, passed in Externment Case No. 06/2025, dated 25.07.2025 whereby, the applicant was externed from the district of Jamnagar for six months, which order was upheld by the Appeal Authority & Joint Secretary (Law and Order), dated 6.9.2025 in the appeal preferred by him, under Section 60 of the Gujarat Police Act, 1951.

3. Heard learned advocate Mr. Nabil Bloch for the applicant who has submitted that, the concerned authorities have not applied their minds to the facts of the case, before passing the impugned order based upon the two FIRs, which have been considered by both the authorities out of which, one FIR came to be registered in the year 2023, whereas, another FIR came to be registered in the year 2024. Mr. Bloch has submitted that, the applicant has already been acquitted in the offence which was registered in the year 2023 and, both these offences pertained to private disputes, wherein, public at large was never affected. It can be gathered that, the concerned authorities had not arrived at a subjective satisfaction, as regards the activities of the applicant being injurious to the public at large. Accordingly, Mr. Bloch has submitted that, the present petition be allowed and the impugned orders be quashed and set aside.

4. Learned APP Ms. Jirga Jhaveri, has strongly opposed this application inter alia contending that, the concerned authorities had rightly taken note of the two FIRs which came to be registered against the applicant and, had rightly arrived at a subjective satisfaction to the effect that, criminal activities carried out by the applicant were injurious to the public at large. Learned APP has therefore submitted that, this Court should not interfere with the findings recorded by the concerned authorities and accordingly, dismiss the application.

5. The Sub Divisional Magistrate of Jamnagar had passed an order externing the applicant from the geographical limits of Jamnagar district, in exercise of his powers under Section 56 of the Gujarat Police Act, 1951. The said Section empowers the Sub Divisional Magistrate to extern a person from the local limits of his jurisdiction or such area and any district or districts or any part thereof, contiguous thereof in the following circumstances:

> "*(a) that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person property, or*
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> *(b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, XVI or XVI or XVII the Indian Penal Code, or in the abetment of any such offence, and when in the opinion of such officer witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regard the safety of their person or property, or*
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> *(c) that an out break epidemic diseases is likely to result from the continued residence of an immigrant ....”*

6. On perusing the order passed by the learned Sub Divisional Magistrate of Jamnagar, it appears that the two offences which had been registered against the applicant by Jamnagar City A Division Police Station in the years 2023 and 2024, had weighed with the learned Sub Divisional Magistrate, and on the basis of said offences, the Sub Divisional Magistrate had recorded that, the applicant was involved in antisocial and illegal activities, which proved to be disturbing the peaceful existence of the society at

large, and that, he was a hot headed individual, and everyone being afraid of him, none were coming forward to registered any complaint against him.

7. It is pertinent to note that, no untoward incident as regards the applicant having disturbed public tranquility or having committed any criminal breach has been registered in either Jamnagar district from which, the applicant was ordered to be externed by the Sub Divisional Magistrate, after the said order having been passed on 25.07.2025, or in the district, wherein, he is presently residing.

8. The Appellate Authority vide it's order dated 04.09.2025 has merely reproduced the gist of the order passed by the Sub Divisional Magistrate of Jamnagar and nothing more. There does not appear to be any independent application of mind by the said Appellate Authority.

9. The Hon'ble Apex Court in its judgment in case of **Deepak S/o Laxman Dongre v. State of Maharashtra,** reported in **AIR 2022 SC 1241** in para 7 has observed as under:

> "*7. There cannot be any manner of doubt that an order of externment is an extraordinary measure. The effect of the order of externment is of depriving a citizen of his fundamental right of free movement throughout the territory of India. In practical terms, such an order prevents the person even from staying in his own house along with his family members during the period for which this order is in*

subsistence. In a given case, such order may deprive the person of his livelihood. It thus follows that recourse should be taken to Section 56 very sparingly keeping in mind that it is an extraordinary measure. For invoking clause (a) of sub-section (1) of Section 56, there must be objective material on record on the basis of which the competent authority must record its subjective satisfaction that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to persons or property. For passing an order under clause (b), there must be objective material on the basis of which the competent authority must record subjective satisfaction that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or offences punishable under Chapter XII, XVI or XVII of the IPC. Offences under Chapter XII are relating to Coin and Government Stamps. Offences under Chapter XVI are offences affecting the human body and offences under Chapter XVII are offences relating to the property. In a given case, even if multiple offences have been registered which are referred in clause (b) of sub-section (1) of Section 56 against an individual, that by itself is not sufficient to pass an order of externment under clause (b) of sub-section (1) of Section 56. Moreover, when clause (b) is sought to be invoked, on the basis of material on record, the competent authority must be satisfied that witnesses are not willing to come forward to give evidence against the person proposed to be externed by reason of apprehension on their part as regards their safety or their property. The recording of such subjective satisfaction by the competent authority is sine qua non for passing a valid order of externment under clause (b)."

10. Upon perusal of the entire record, except the statements of two witnesses which form part of the order of the Sub Divisional

Magistrate, Jamnagar, there is no other incriminating material against the applicant, on the basis of which, the concerned authority could have arrived at a subjective satisfaction to the effect that, the antisocial and illegal activities of the applicant were injurious to the people of the area. It can also be gathered from the statements of the two witnesses which have been reproduced by the Sub Divisional Magistrate, Jamnagar in his order that, specific period of offence is not mentioned by the said two witnesses. Also, both these statements are identical in nature. It is indeed surprising that, inspite of two F.I.Rs having been registered against the applicant, none had come forward to give their statements to the Sub-divisional Magistrate.

11. Hence, the present special criminal application is allowed and the impugned order of externment passed by the Sub–Divisional Magistrate, Jamnagar dated 25.07.2025 being numbered as externment Case No.06/2025, as well as the order of the Appellate Authority dated 04.09.2025, upholding the order of the Sub–Divisional Magistrate of Jamnagar dated 25.07.2025, are hereby quashed and set aside. Rule is made absolute.

(UTKARSH THAKORBHAI DESAI, J)

KAJAL

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: KAJAL KISHORBHAI NAVLAKHA(HCD0076), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 19/01/2026 19:11:42