IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1496 OF 2026

Sanjay S/o Sheshrao Jadhav,
Age : 43 Years, Occu: Agri,
R/o: Chincholi (P.U), Tq. Loha,
Dist. Nanded. .... Petitioner

Versus

01. The State of Maharashtra,
Through its Secretary,
Home Department Mantralaya,
Mumbai.

02. The Divisional Commissioner,
Chhatrapati Sambhajinagar.

03. The Superintendent of Police,
Nanded Division Nanded,
Tq. & Dist. Nanded.

04. The Sub Divisional Officer/
Sub Divisional Magistrate Kandhar,
Dist. Nanded.

05. The Sub Divisional Police Officer,
Sub Division, Kandhar, Dist. Nanded.

06. Police Inspector, Usmannagar,
Police Station, Tq. Loha, Dist. Nanded. .... Respondents

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Mr. Avinash D. Hande, Advocate for the Petitioner
Mrs. Ashlesha S. Deshmukh, APP for Respondent – State

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 29th OCTOBER, 2026

JUDGMENT :

1. Rule. Rule made returnable fourth with. With the

consent of the parties, the petition is taken up for final hearing and disposal at the stage of admission itself.

2. The petitioner challenges the order dated 8th June, 2026 passed by the Sub-Divisional Magistrate, Kandhar, directing his externment from the districts of Nanded, Latur, Parbhani and Hingoli for a period of six months, and the appellate order challenging the said externment order has been confirmed.

3. The externment proceedings were basically founded upon the Crime Nos. 22 of 2011, 59 of 2018, and 237 of 2025 registered at Usmannagar Police Station. The externment proceedings also rely upon the statements recorded of the witnesses in camera. The first two crimes involved allegations pertaining to assault and related offences. The third concerns alleged illicit illegal excavation and theft of sand. Upon considering the police proposal, the inquiry report, and the petitioner's explanation, the externing authority directed his removal from the aforesaid four districts.

4. Learned Advocate appearing for the petitioner vehemently argues and submits that the first two prosecutions arose from the dispute concerning agricultural land between the

relatives of the petitioner himself. The prosecution arising from Crime No. 59 of 2018 resulted in acquittal on 22nd October, 2024, while the Sessions Case No. 06 2012 arising from the Crime No. 22 of 2011 resulted in acquittal on 1st April, 2026. Both acquittals thus preceded the externment order. It is submitted that these old incidents do not establish a continuing necessity for externment of the petitioner. Counsel principally challenges the territorial extent of the order passed by the authorities, considering that no sufficient justification exists for excluding the petitioner from four districts when the activities of the petitioner relied upon by the prosecution are restricted to the specific locality. The petitioner is an agriculturist, and his exclusion also affects his livelihood and his ability to attend to his family members, including his brother who is suffering from paralysis. Learned Advocate for the applicant submits that on several other grounds, but mainly on the ground of exercising the jurisdiction of externing the petitioner from excessive four districts amounts to exercise of an excessive jurisdiction without there being any *bona fide* reason or explanation on at the behest of the externing authority. He submits that the petition be allowed and the order be set aside. He further submits that out of six months, five months the petitioner has already undergone the externment order. That also requires consideration.

5. Learned APP on the other hand supports the impugned orders. She submitted that the petitioner's activity created terror among the residents and that the witnesses due to fear are unwilling to come forward openly against the present petitioner. Their statements were therefore recorded in camera, which makes serious allegations against the petitioner and demonstrates the criminal activities of the petitioner. According to the learned APP, the competent authority considered this material and recorded the requisite subjective satisfaction before passing the externment order.

6. The powers of externment seriously restricts a citizen's liberty to move and reside freely in the locality. Its preventive character does not dispense with the requirement that the restrictions imposed must bear a reasonable relationship to the material and the purpose sought to be achieved. Judicial review does not involve substituting the court's assessment for that of the competent authority's assessment. Nevertheless, the existence of a rational basis for the restriction, including its territorial extent, remains open for examination and judicial review of this Court. In the case of ***Pandharinath Shridhar Rangnekar v. Deputy Commissioner of Police, State of Maharashtra***, ***(1973) 1 SCC 372,***

the Supreme Court explained the externment need for invariability be confined to the precise locality of the alleged activities. A larger area may be necessary to make the measure effective, but for that purpose, the reasons are to be assigned. Equally, an excessive territorial restriction can be struck down where it exceeds what the circumstances reasonably justify. These principles were again reiterated in the case of ***Rahmat Khan v. Deputy Commissioner of Police***, ***(2021) 8 SCC 362***. Thus, it is clear that the externing authority does possess the power to extern the externee from a larger area, but a justifiable reason will have to be provided in its order while exercising such excessive jurisdiction.

7. Consequently, the petitioner's challenge cannot merely succeed because no offence is registered against him in the additional districts. The relevant question is whether the material and the consideration reflected in the impugned order disclosed by his exclusion from all four districts are reasonably necessary. Nor is the authority required to write a detailed judgment discussing confidential evidence in a manner which might reveal the identity of witnesses. What is required is discernible connection between the circumstances relied upon and the geographical restrictions imposed by the authorities on the petitioner.

8. In the present case, the registered offences relied upon pertain to Usmannagar police station. The impugned orders refer generally to the surrounding districts, accessibility, and the effectiveness of the externment. Such considerations may be relevant in an appropriate case. Here, however, they have not been connected to any particular circumstance demonstrating why the petitioner's presence in Latur, Parbhani, or Hingoli would enable him to continue the alleged activities in the affected locality. The general observations do not adequately explain the necessity for the extensive exclusion of the petitioner being ordered by the authorities. The State's reliance upon the in-camera statements does not answer this distinct objection. Such statements may constitute relevant material for examining the statutory conditions for externment. Their existence, however, does not by itself establish the necessity for exclusion from every district specified in the order. Even accepting the State's submission concerning witness apprehension for the purpose of examining this ground, a rational basis for the territorial extent must still be discernable. That requirement is not satisfied in the present case. The acquittals in the two earlier prosecutions also require consideration in their proper context. The statutory provisions mentioned in those prosecutions cannot merely by their seriousness establish a present necessity for externment after the

prosecutions have concluded in acquittal. At the same time, neither the relationship between the parties nor the existence of land dispute necessarily excludes preventive action where independent material satisfies the statutory requirements. It is unnecessary to decide the sufficiency of the remaining material conclusively. Since the territorial excess is sufficient to dispose of this present petition, perusal of the appellate court's order also does not cure this defect. The Court cannot itself select a smaller area and reconstruct the preventive satisfaction which the competent authority was required to form. The externment directions, as framed, therefore cannot sustain. The petitioner's personal difficulties reinforce the substantial consequences of the restriction, though the interference in this case rests upon the absence of adequate jurisdiction for its territorial extent.

9. Accordingly the Writ Petition stands allowed.

10. The externment order dated 8th June, 2026 passed by the Sub-Divisional Magistrate, Kandhar and the appellate order confirming it are quashed and set aside.

11. The petitioner shall not be prevented from entering or residing in the aforesaid districts on the strength of these orders.

These observations shall not affect the investigation or the adjudication of any criminal proceedings pending against the present petitioner.

12. Rule is made absolute in the above terms.

(HITEN S. VENEGAVKAR)
JUDGE

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