IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1408 OF 2026

Mohd. Moid Mohd. Rakeeb Khan …Petitioner

Versus

The State of Maharashtra & Ors. …Respondents

WITH

CRIMINAL WRIT PETITION NO.984 OF 2026

Mohd. Saeed Mohd. Rakeeb Khan …Petitioner

Versus

The State of Maharashtra & Ors. …Respondents

Mr. M. B. Shirsat a/w. Ms. Fehmida Ahmed, Ms. Swati Pandey i/b. Mr. M. A. Khan, for the Petitioners.
Ms. S. D. Shinde, APP, for the Respondent-State in WP/1408/2026.
Mrs. Savita M. Yadav, APP, for the Respondent-State in WP/984/2026.
Mr. Ganpat Ganeshkar, PSI, Chunabhatti Police Station, Mumbai, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 13th OCTOBER 2026

PC:-

1. Heard Mr. Shirsat, learned Counsel appearing for the Petitioners, Ms. Shinde and Mrs. Yadav, learned APPs appearing for the Respondent-State.

2. By these Writ Petitions filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the impugned order dated 25th July 2025 passed by the Deputy Commissioner of Police, Zone-6, Chembur, Mumbai, in Externment Case No.57 of 2025 as also the orders dated 6th February 2026 passed by the Divisional Commissioner, Konkan Division, Mumbai, in Appeal No.112 of 2025 and 113 of 2025 filed under the provisions of Section 60 of the Maharashtra Police Act, 1951.

3. It is the submission of Mr. Shirsat, learned Counsel appearing for the Petitioners that the impugned order dated 25th July 2025 has been passed against eight persons. He submits that out of those eight persons, the said order has been set aside as far as six persons are concerned. To substantiate the said contention, he relies on the order dated 13th March 2026 passed by a learned Single Judge in Criminal Writ Petition No.1011 of 2026 and the order dated 30th April 2026 passed by a learned Single Judge in Criminal Writ Petition No.1930 of 2026. He submits that for the same reasons, the impugned orders be quashed and set aside.

4. On the other hand, learned APPs strongly oppose the Writ Petitions and supported the impugned order.

5. Perusal of the record shows that as far as the Petitioner in Writ Petition No.984 of 2026 is concerned, the offences which are taken into consideration are set out in paragraph No.1.3 of the impugned order dated 25th July 2025 and as far as Petitioner in Writ Petition No.1408 of 2026 are concerned, they are set out in paragraph 1.4. The said paragraphs are set out herein below for ready reference:

१.३ टोळी प्रमुख मोहम्मद सईद मोहम्मद रकीब खान उर्फ गब्बर याचे विरूध्द दाखल गुन्हे.

अ. क्र.	पो. ठाणे	गु.र.क्र.	कलम व कायदा	दाखल दिनांक	कोर्ट केस नंबर	सदयस्थिती
१	नेहरूनगर	१४५/०८	१४३, १४४, १४७, १४८, १४९, ३२४, ५०४, ५०६(२) ३४ भादवि	१९/०४/२००८	१०७/पीडब्लू/०९	निर्दोषमुक्त
२	चुनाभट्टी	०५/२०	३५३, ३४१, ३२३, ५०६, ५०४ भादवि	१०/०१/२०२०	७६६/सेशन केस/२१ दि ०२/०२/२०२१	दोषमुक्त
३	चुनाभट्टी	९३/२१	३२६, ३२३, ५०४, ५०६, ३४ भादवि	०३/०४/२०२१	२६४१/पीडब लू/२२ दि १७/१०/२२	दोषमुक्त
४	चुनाभट्टी	१००/२५	१८९(३), १९१(२), १९०, १३२ भा न्या सं	१६/०२/२०२५	१५५७/पीडब लू/२५	न्यायप्रविष्ठ

१.४ टोळीतील सदस्य मो. मोईद मोहम्मद रकीब खान याचे विरूध्द दाखल गुन्हे

अ. क्र.	पो. ठाणे	गु.र.क्र.	कलम व कायदा	दाखल दिनांक	कोर्ट केस नंबर	सदयस्थिती
१	चुनाभट्टी	६१/२०१७	१४३, १४९, ३४१, ४४८, ५०६(२), १२०(ब) भादवि सह ३७(१) मपोका	२६/०३/२०१७	२१४/पीडब्लू/१८ दि. १७/०१/१८	न्यायप्रविष्ठ
२		९३/२०२१	३२६, ३२३, ५०४, ५०६, ३४ भादवि	०३/०४/२०२१	२६४१/पीडब्ल/२२ दि. १७/१०/२०२२	दोषमुक्त
३		५२१/२०२३	३५४, ५०९, ५०६(२), ५०४, ३२३, ३३६, ३४ भादवि सह ३७(१), १३५ मपोका	०५/१२/२०२३	.....	मा सत्र न्यायालयाने सदरचा गुन्हा रद्द केलेला आहे.
४		१००/२५	१८९(३), १९१(२), १९०, १३२ भा न्या सं	१६/०२/२०२५	१५५७/पीडब्लू/२५	न्यायप्रविष्ठ

6. The above paragraphs 1.3 and 1.4 of the impugned order clearly shows that except the offence registered in the year 2025 i.e. C.R. No.100 of 2025 registered with Chunabhatti Police Station, Mumbai, there is no live-link between other offences and action of externment. As far as said C.R. No.100 of 2025 is concerned, a learned Single Judge by order dated 13th March 2026 passed in Criminal Writ Petition No.1011 of 2026 has observed in paragraphs 14 and 15 as under:

> "***14.*** *On the aforesaid touchstone, reverting to the facts of the case, evidently, the petitioners are not arraigned in any of the crimes registered against Mohameed Sayeed, the alleged gang leader, or other members of the gang. The petitioners seem*

to have been roped in on the basis of registration of CR No.100/2025 for the offences punishable under Sections 189(3), 191(2), 190 and 132 of the BNS, 2023 only. A perusal of the final report filed in the said crime indicates that on 15th February, 2025, the police party found that two groups of persons were involved in a fight. When the police party tried to intervene, the gang leader and his nephew Zaid, pushed the police party aside and fled away. A report was, thus, came to be lodged with the allegations that the members of the said two groups, which were engaged in the fight, including Mohammad Sayeed, the alleged gang leader, and Zaid, a member of the alleged gang, formed an unlawful assembly and committed rioting, and used criminal force to a public servant with intent to deter the said public servant from discharging his duty as such public servant. The petitioners have been arraigned as the members of the said unlawful assembly.

15. *Even if the allegations in the said FIR are taken at par, it does not appear that the petitioners were involved in the offences as the members of the gang allegedly led by Mohammad Sayeed. On the contrary, it appears that two groups of persons were involved in a fight and thereby they formed an unlawful assembly and used criminal force to the public servants, when the later tried to intervene. There is no clarity as to whether the petitioners were in fact the members of the alleged gang led by Mohammad Sayeed. At best, the offences arrayed against the petitioners are individualistic in nature rather than a part of a concerted action by a group or gang. In substance, the acts attributed to the petitioners lack the element of gang or group based criminal conduct. Thus, the externment order suffers from a fundamental error."*

7. Thus, the above reasons are squarely applicable to the present case.

8. Accordingly, in the facts and circumstances, case is made out for interference in the impugned orders. The Writ Petitions are disposed of by passing the following order:

ORDER

(a) The impugned order dated 25th July 2025 passed by the Deputy Commissioner of Police, Zone-6, Chembur, Mumbai, in Externment Case No.57 of 2025 as also the orders dated 6th February 2026 passed by the Divisional Commissioner, Konkan Division, Mumbai, in Appeal No.112 of 2025 and 113 of 2025 are quashed and set aside.

[MADHAV J. JAMDAR, J.]

SONALI MILIND PATIL
Digitally signed by SONALI MILIND PATIL
Date: 2026.10.14 10:57:34 +0530