



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 134 OF 2026

Ritik @ Somesh Vilas Parate, aged about 24 years, Occ. Labour, r/o Ladpura Nandgiri road, Pachpaoli, Nagpur. Presently r/o Sarvaday Chowk satighat road, Santaji School, Wani, District Yavatmal.

... PETITIONER

VERSUS

1. State of Maharashtra, through Divisional Commissioner, Nagpur Division, Nagpur District, Nagpur.
2. Deputy Commissioner of Police, Zone 3, District Nagpur.
3. State of Maharashtra, through Police Station Officer Police Station, Pachpaoli, District Nagpur.

... RESPONDENTS

Shri R.P. Durge, Advocate for the petitioner.
Ms PC. Bawankule, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE :27.03.2026.

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith.
2. Heard the learned Counsel appearing for the parties.
3. This is a petition filed under Articles 226 and 227 of the Constitution of India questioning the legality and validity of the orders dated 16.10.2025 passed by the respondent no.2 Deputy Commissioner of Police, Zone 3, district Nagpur and order dated 22.12.2025 passed by respondent no.1 Divisional Commissioner, Nagpur. The proceedings under Section 57 of the Maharashtra Police Act, 1951 (for short hereinafter referred to as 'the Act 1951') were initiated against the petitioner. Pursuant to the said proceedings show cause notice under Section 59 came to be issued to the petitioner. Therefore, in response to the said notice the petitioner appeared and made submission before the Assistant Commissioner of Police. Accordingly, after considering the report of the Assistant Commissioner of Police as well as material placed before respondent no. 2, respondent no. 2 has passed the impugned order, which has been upheld by respondent no.1 in the appeal.
4. Learned Counsel for the petitioner submits that though the action under Section 57(1)(a)(i) of the Act, 1951 was initiated against him, however the entire order would depict that the same was passed under Section 56 and not under Section 57 of the Act, 1951. The

considerations which are necessary to be considered under Section 57, those consideration have not been considered while passing the impugned order. The petitioner was convicted for the offence punishable under Section 307 of the Indian Penal Code in Crime No.158/2019. Though the offence under Section 302 was also registered against him, he was acquitted under Section 302 on 09.02.2024. Thereafter, he has committed two other offences. To invoke provisions of Section 57 of the Act 1951, according to him, after his conviction the offence which were registered against the petitioner cannot be taken into consideration for the simple reason that Crime No.754 of 2024 was registered in the individual capacity whereas Crime No.124 of 2025 was registered under the provisions of NDPS Act. So far as the crime registered under the NDPS Act is concerned that crime cannot be considered as could be gathered from Section 57 of the Act, 1951 and therefore, he submits that absolutely, there is no ground to extern the petitioner under Section 57 of the Act 1951. Respondent no.2 has failed to subjectively satisfy himself that Crime No.754 of 2024 which was registered after conviction of the petitioner, is of an individual character and cannot be taken into consideration for invoking Section 57 of the Act 1951. The petitioner further raised another ground that while externing the petitioner from Nagpur

district, he was externed for two years and however, there are no reasons in the entire order justifying externment of the petitioner for maximum period.

5. Learned Counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of *Deepak s/o Laxman Dongre vs. The State of Maharashtra and ors. (Criminal Appeal No.139/2022)* to submit that the order must record subjective satisfaction about the necessity of passing of an order of externment for the maximum period of two years which is based on material on record. Therefore, impugned order is bad in law, and same deserves to be quashed and set aside. Also, as respondent no. 1 Divisional Commissioner has not considered any of the ground raised above, therefore, even the said order of the Divisional Commissioner cannot be sustained in the eyes of law.

6. On the other hand learned APP vehemently opposes the petition by submitting that admittedly 7 offences are registered against the petitioner. Three preventive actions under Section 110 were initiated against the petitioner, however there is no change in the behavior of the petitioner. In-camera statements of the witnesses were recorded and enquiry under Section 59 was conducted, opportunity of hearing has also been given to the petitioner and therefore, after

following all the mandatory procedure, the impugned orders came to be passed. The subjective satisfaction of the authority could be gathered from the entire order. The petitioner has committed 7 offences which are serious in nature and in one of the crime the petitioner was convicted and therefore, Section 57 was invoked. Respondent no.2 after verifying the entire material objectively and after subjective satisfaction has passed the order. He further submits that after conviction of the petitioner under Section 307 of IPC, the petitioner has committed two offences. So far as the Crime No.754/2024 is concerned, it was registered on 17.09.2024 for the offence punishable under Sections 296, 115, 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023. Section 57 states that it is sufficient to extenuate the extenuation if he is convicted and thereafter another offence similar to that for which a person was convicted is committed. Further explanation appended to section 57 states that in case a person is convicted for an offence mentioned in clause (a)(i), an offence falling under any of the chapters of the IPC is an offence similar to that for which a person was convicted. There is nothing else to be considered except the aforesaid and in detail respondent no. 2 has scanned the entire material and passed the impugned order. In the appeal filed by the petitioner under Section 60 of the Act, 1951 again the Divisional Commissioner has re-appreciated

the entire material and thereafter confirmed the findings of respondent no.2 and therefore, it is submitted that this Court may not go into the concurrent findings of fact as there is no merit in the petition and the same deserves to be dismissed.

7. I have considered the rival submission and perused the record. Section 57 of the Maharashtra Police Act, 1951 reads as under :

“57. Removal of persons convicted of certain offences—

[(1)] If a person has been convicted —

(a) (i) of an offence under Chapters XII, XVI or XVII of the Indian Penal Code ; or

(ii) of any offence under sections 65, 66A or 68 of the Bombay Prohibition Act, 1949 ; or

(iii) of an offence under sections 3, 4, 5, 6 or 9 of the Suppression of Immoral Traffic in Women and Girls Act, 1956; or

(iv) of an offence under section 135 of the Customs Act, 1962 ; or

(v) of an offence under section 4, or for accepting bet in any public street or thoroughfare or in any place to which the public have or are permitted to have access, or in any race course under clause (a) of section 12 or under section 12A of the Bombay Prevention of Gambling

Act, 1887 ; or

...

(c) thrice or more of an offence under section 122 or 124 of this Act, the Commissioner, the District Magistrate, or the Sub-Divisional, Magistrate empowered by the State Government in this behalf, if he has reason to believe that such person is likely again to engage himself in the commission of an offence similar to that for which he was convicted, may direct such person notwithstanding anything contained in this Act or any other law for the time

being in force, to remove himself outside such area or areas in the State of Maharashtra (whether within the local limits of the jurisdiction of the officer or not and whether contiguous or not), by such route, and within such time, as the officer may specify and not to enter or return to the area or areas so specified (hereinafter referred to as “the specified area or areas”) from which he was directed to remove himself.]

2....

Explanation.— For the purpose of this section “an offence similar to that for which a person was convicted” shall mean —

(i) in the case of a person convicted of an offence mentioned in clause (a)(i) an offence falling under any of the chapters of the Indian Penal Code, and

(ii) in the case of a person convicted of an offence mentioned in clause (a) (excluding sub-clause (i) thereof), (b) and (c), an offence falling under the provisions of the Acts mentioned respectively in the said clauses.]”

8. Perusal of Section 57 would depict that this provision was incorporated with an object to extern those persons who are already convicted and thereafter also they commit further offence of similar nature. Admittedly, the parameters laid down under Sections 56 and 57 are altogether different. The legislature had a specific intention for incorporating Section 57 of the Act, 1951 and therefore, taking into consideration the specific language used under Section 57 of the Act, the present matter will have to be considered. So far as the facts of the present case is concerned, it is not in dispute that the petitioner was convicted in Crime No.158 of 2019 for the offence punishable under

Section 307. It is an admitted position that thereafter the petitioner has committed Crime No.754 of 2024 for the offence punishable under Sections 296, 115, 351(2), 3(5) of the BNS. Another crime came to be registered under the provisions of NDPS Act i.e. Crime No.124/2025. Considering this fact, under such contingency, the question is whether respondent no.2 has rightly exercised his powers provided under Section 57 of the Maharashtra Police Act or not. After perusal of the impugned order it appears that respondent no. 2 has considered all the offences which were registered against the petitioner. While considering the offences, respondent no.2 has taken into consideration the impact of those offences on the society. All these observations which finds place in the impugned order can be a subject matter of an order passed under Section 56 of the Maharashtra Police Act and cannot be considered when the order is passed under Section 57 of the Act, 1951. After going through the entire impugned order I do not find that the order was passed under Section 57 of the Act, 1951. As only on two parameters the external authority can record a finding if the order is passed under Section 57 i.e. the external has been convicted of any of the offences enumerated in clauses (a) to (c) of sub-section (1) and further satisfaction that it has reason to believe that the proposed external was likely to again engage himself in the commission of an

offence similar to that for which he was convicted. Though the petitioner was convicted for the offence punishable under Section 307 and at later point of time he has again committed other offences however no finding to that effect is recorded in the impugned order. Also whether those crimes were having any impact on the society or not is also not considered by the respondent no.2.

9. This Court in Criminal *Writ Petition (St.) No.18661 of 2023 (Mohammad Noor Hasan Abdul Gafar Shaikh @ Hasan Kanya vs. The State of Maharashtra and anr.) dated 02.05.2024* particularly in paragraphs 19, 20, 21 and has held as under :

“19. Was there any objective material to record such satisfaction is the moot question? As noted above, the historical fact of the Petitioner having been convicted for the offences punishable under Chapter XVII of the Penal Code in connection with the crimes registered during the period 2005-08 could not have been legitimately taken into account by the externing authority. If the said convictions are eschewed from consideration, apart from the conviction recorded in C.R.No.50 of 2015 which satisfies the element of a condition precedent, two crimes registered against the Petitioner appear to have been taken into consideration by the Competent Authority.

20. I have perused the allegations in the FIR in C.R.Nos.517 of 2022 and 13 of 2022 registered at Sewree Police Station. In none of the crimes, the Petitioner has been named as the suspect directly. C.R.No.13 of 2022 was registered against unknown person. In C.R.No.517 of 2022, 8 named accused allegedly committed theft on a stranded ship. Those persons allegedly stated that at the instance of the applicant and another person Mobin Shaikh, they attempted to commit theft on the said ship.

21. This being the nature of the accusation against the Petitioner, it would be difficult to accede to the submission on behalf of the Respondent that the Competent Authority considered the objective material to record its subjective satisfaction. Undoubtedly, the satisfaction to be arrived at by the Competent Authority cannot be questioned on merits. However, the existence and quality of the material on which the satisfaction appears to have been arrived at is required to be appreciated. ”

10. So far as the present impugned order is concerned, in the entire order there is no subjective satisfaction in respect of the crime, which was committed by the petitioner after his conviction. Respondent no. 2 has considered all the crimes, which were registered against him, which is not permissible under Section 57 of the Maharashtra Police Act. It is to be borne in mind that every provision is having its own object. So far as Section 57 is concerned, it simply speaks about the contingency when a person is convicted and thereafter he commits another offence similar to that for which the person was convicted. It presupposes that there should be a conviction and after conviction the person committed an offence similar to the one, he was convicted, then the provision under Section 57 can be invoked. Earlier offences before the external authorities before conviction is nothing but extraneous considerations. Respondent no. 2 has failed to consider this difference under Sections 56 and 57. The petitioner was convicted for Section 307 of the IPC and later he has committed another offence under Sections

296, 115, 351(2), 3(5) of the BNS. Perusal of the FIR of the said offence would demonstrate that first informant was the relative of the petitioner and all the allegations were in an individual capacity, which does not have an effect on the society at large. Even this fact has been ignored by respondent no. 2 and under such circumstances it cannot be said that respondent no. 2 has applied its mind. So also it appears from the record that he has failed to subjectively satisfy on the objective material placed before him. On the contrary, he has considered parameters laid down under Section 56 of the Act, 1951 which is not permissible. Therefore, very purpose of incorporating Section 57 would be of no use.

11. Another important aspect is that the petitioner was externed from Nagpur District for two years. Perusal of the impugned order do not show any reason why the petitioner was externed for a maximum period. It is mandatory on the part of the respondent authorities that they should specify the reason so also subjective satisfaction about the necessity of passing an order of externment for the maximum period, which should be based on material on record.

12. The Hon'ble Supreme Court in the case of *Deepak s/o Laxman Dongre vs. State of Maharashtra and ors (surpa)* in paragraph 13 has specifically held as under :

"13. Section 58 of the 1951 Act reads thus:

58. Period of operation of orders under section 55. 56. 57 and 57A - A direction made under section 55 56 57 and 57A not to enter any particular area or such area and any District or Districts, or any part thereof, contiguous thereto, or any specified area or areas as the case maybe, shall be for such period as may be specified therein and shall in no case exceed a period of two years from the date on which the person removes himself or is removed from the area, District or Districts of part aforesaid or from the specified area or areas as the case may be".

On a plain reading of Section 58, it is apparent that while passing an order under Section 56, the competent authority must mention the area or District or Districts in respect of which the order has been made. Moreover, the competent authority is required to specify the period for which the restriction will remain in force. The maximum period provided for is of two years. Therefore, an application of mind on the part of the competent authority is required for deciding the duration of the restraint order under Section 56. On the basis of objective assessment of the material on record, the authority has to record its subjective satisfaction that the restriction should be imposed for a specific period. When the competent authority passes an order for the maximum permissible period of two years, the order of externment must disclose an application of mind by the competent authority and the order must record its subjective satisfaction about the necessity of passing an order of externment for the maximum period of two years which is based on material on record. Careful perusal of the impugned order of externment dated 15th December 2020 shows that it does not disclose any application of mind on this aspect. It does not record the subjective satisfaction of the respondent no.2 on the basis of material on record that the order of externment should be for the maximum period of two years. If the order of externment for the maximum permissible period of two years is passed without recording subjective satisfaction regarding the necessity of extending the order of externment to the maximum permissible period,

it will amount to imposing unreasonable restrictions on the fundamental right guaranteed under clause (d) of Article 19(1) of the Constitution of India.”

Therefore, considering above observations of Hon'ble Supreme Court, I find that respondent no. 2 has failed to record its subjective satisfaction based on objective assessment of the material and therefore, failed to apply its mind.

13. Further, even a perusal of the impugned order passed by the Divisional Commissioner it appears that all the above grounds which are raised have not been considered and therefore, respondent no. 1 also failed to take into consideration all the aspects which were observed by this Court as above. In this view of the matter, the impugned orders are not sustainable in the eyes of law, hence the following order :

(a) The petition is allowed.

(b) The impugned orders dated 22.12.2025 and 16.10.2025 passed by respondent no.1 and 2 respectively are hereby quashed and set aside.

14. The Petition stands disposed of accordingly. Rule is made absolute in the above terms.

(M.M. NERLIKAR, J.)

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