



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

CRIMINAL WRIT PETITION NO. 280 OF 2026

1. **Shailesh s/o Kishor Madewar**

Aged about 40 years,
Occupation :Private Work,
R/o Plot No.16, Sonzhari Nagar,
Solamkiwadi, Near
Shitla Mata Mandir, Old Bidipeth,
Nagpur (At Present Externee)

PETITIONER

// V E R S U S //

1. **State of Maharashtra,**

Through Assistant Commissioner
Police, Sakkardara Division, Nagpur
City, Nagpur

RESPONDENTS

2. **Deputy Commissioner of Police,**
Zone-4, Nagpur City, Nagpur

3. **Divisional Commissioner, Nagpur**
Division, Nagpur

Mr. N.K. Bhangde, Advocate for the petitioner.
Mr. V.A. Thakre, APP for respondents/State.

CORAM : M.M. NERLIKAR, J.

DATE:- 24.04.2026

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.

2. Heard finally with the consent of learned counsel for the petitioner and learned APP for the State.

3. The petitioner has challenged the order dated 02.02.2026 passed by respondent No.2-Deputy Commissioner of Police, Zone-4, Nagpur City, Nagpur and order dated 25.03.2026 passed by respondent No.3-Divisional Commissioner, Nagpur Division, Nagpur wherein the petitioner was externed for six months from entire Nagpur District.

4. Learned counsel for the petitioner submits that ground for externing the petitioner are the offences referred to in the chart at page No.27. He invited my attention to the definition provided in Section 2(a) of the Maharashtra Prevention of Communal, Anti Social and other Dangerous Activities Act, 1980 (for short, 'the Act of 1980'), which defines "acting in any manner prejudicial to the maintenance of public order" specifically Section 2(a)(iv) of the Act of 1980 and submitted that it relates to the offences which are punishable with death or imprisonment for life or imprisonment of term extending to seven years or more. He submits that so far as chart at page 27 of the petition is concerned, all the offences which are shown against the petitioner are

punishable for imprisonment up to one year and the only offence i.e. crime No.57/2023 which is registered under Section 8 (C) and 20(b) (ii) of NDPS is punishable up to 10 years. Therefore, according to the petitioner, it does not satisfy section 2(a)(iv) of the Act of 1980. He has relied on the judgment of this Court in the case of *Aamna Bi Shiekh Pir Mohd. Sheikh vs. State of Maharashtra and another* reported in *2019 ALL MR (Cri) 3193*.

5. On the other hand, the learned APP opposes the petition and submits that the petitioner is a habitual criminal indulging in narcotic drugs. He submits that if a cumulative effect is given to the acts of the petitioner, then it can be said that the activities of the petitioner are disturbing or is likely to disturb public order under Section 56(1)(bb) of the Maharashtra Police Act, 1951 and therefore, learned APP submits that after applying the mind and after arriving at subjective satisfaction, the respondent No.2 has passed the order. He further submits that in an appeal filed under Section 60 of the Maharashtra Police Act, 1951 the Divisional Commissioner, Nagpur Division, Nagpur has also confirmed the order of the Deputy Commissioner of Police,

Zone-4, Nagpur City, Nagpur. Therefore, there is no merit in the petition and same deserves to be dismissed.

6. I have considered the rival submissions.

Section 56(1)(bb) reads as under:-

56. Removal of persons about to commit offence.

— [(1)] Whenever it shall appear in [Brihan Mumbai] and other areas for which a Commissioner has been appointed under section 7 to the Commissioner and in other area or areas to which the State Government may, by notification in the Official Gazette, extend the provisions of this section, to the District Magistrate, or the Sub-Divisional Magistrate specially empowered by the State Government in that behalf

.....

.....

[(bb) that there are reasonable grounds for believing that such person is acting or is about to act (1) in any manner prejudicial to the maintenance of public order as defined in the Maharashtra Prevention of Communal, Antisocial and other Dangerous Activities Act, 1980 or (2) in any manner prejudicial to the maintenance or supplies of commodities essential to the community as defined in the Explanation to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 or,”

7. It is further useful to refer to the definition under

Section 2(a)(iv) of the Act of 1980 which reads as under:-

“2. In this Act, unless the context otherwise requires-

(a) “acting in any manner prejudicial to the maintenance of public order means

.....

.....

(iv) committing offences punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more, where the commission of such offences disturbs, or is likely to disturb, public order.”

8. This Court in the case of ***Aamna Bi Shiekh Pir Mohd. Sheikh*** (supra) has specifically interpreted Section 2(a)(iv) of the Act of 1980 which would demonstrate that the offences which are not punishable up to seven years or more, those offences cannot be considered. It is further to be noted that word “offences” used in Section 2(a)(iv) of the Act of 1980 would demonstrate that there should be more than one offence committed by externee where maximum punishment prescribed is of death or imprisonment for life or imprisonment for term extending seven years or more. Paragraph No.3 of the aforesaid judgment is relevant which reads as under:-

“3. Section 2(a) of the Anti Social Act, defines the expression “acting in any manner prejudicial to the maintenance of public order”. In the instance case, the definition as given under

Clause (iv) of Section 2(a) is relevant and it is reproduced as under:-

Section 2. In this Act, unless the context otherwise requires,-

(a) “acting in any manner prejudicial to the maintenance of public order means-

(i).....

(ii).....

(iii).....

(iv) committing offences punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more, where the commission of such offences disturbs, or is likely to disturb, public orders.

A bare reading of clause (iv) reproduced above, would be sufficient for us to know what is contemplated under this definition. It is an activity which is continuous in nature and not something that is an isolated or a singular activity. This is obvious from the use of plural form of noun offence. The noun is employed as “offences”. That would mean that there should be at-least more than one offence committed by the proposed externee for which the maximum punishment prescribed is of death or imprisonment for life or imprisonment for a term extending to 7 years or more. In addition to this requirement of law, other ingredient of the

definition is that the offences registered against the externee must be of such nature as to be when committed would enable the authority to form an opinion that the commission thereof is likely to disturb or would disturb the public order. But, the latter ingredient would come into picture only after first part of the definition that is the commission of more than one offence having prescribed punishment as mentioned in this clause is completed. If first ingredient is not fulfilled, there would be no need for the authority to consider the other factor relating to disturbance of the public order”.

9. So far as the present case is concerned, admittedly, it appears from the record that total seven crimes are registered against the present petitioner under the provisions of the NDPS Act. Except one offence i.e. crime No.57/2023 for all other offences, the punishment provided is up to one year only. It is only Crime No. 57/2023, wherein the punishment provided is up to 10 years. Therefore, considering this fact, in my opinion, there is no compliance of Section 2(a)(iv) of the Act of 1980 in order to invoke Section 56(1)(bb) of the Maharashtra Police Act, 1951.

10. Under such circumstances, the respondent Nos.2 and 3 have miserably failed to take into consideration this fact and therefore, committed gross error by passing the order of externment against the petitioner. Under such circumstances, the petition succeeds. Hence I proceed to pass the following order:-

ORDER

(i) Criminal Writ Petition is allowed.

(ii) The impugned order dated 02.02.2026 passed by respondent No.2-Deputy Commissioner of Police, Zone-4, Nagpur City, Nagpur and order dated 25.03.2026 passed by respondent No.3 -Divisional Commissioner, Nagpur Division, Nagpur are quashed and set aside.

Rule is made absolute in the above terms.

Pending applications, if any, also stand disposed of.

(M.M. NERLIKAR, J.)

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