



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 5644 OF 2024**

Abdul Rahim Yakub Sayyed  
Age : 47 yrs, Occupation : Business,  
R/o Palm Plaza Building, Room No.2,  
Ground Floor, Plot No.42, 52,  
Bungalow, Panvel Dist. Raigad ....Petitioner

Vs.

The State of Maharashtra  
through DCP Zone 2, Panvel, Navi Mumbai ....Respondent

Mr. Ibraheem K.M. for the Petitioner.  
Mr. N.B. Patil, APP for the State.  
Mr. Rajendra Ghevadekar, API, Panvel City, Navi Mumbai, present.

**CORAM : SHYAM C. CHANDAK, J.**

**RESERVED ON : 18<sup>th</sup> DECEMBER, 2024.**

**PRONOUNCED ON : 20<sup>th</sup> DECEMBER, 2024.**

**JUDGMENT :-**

. Present Petition seeks to quash and set-aside the impugned Order dated 01<sup>st</sup> May, 2024 passed by the Respondent Deputy Commissioner of Police, Zone -2, Panvel, Navi Mumbai thereby Petitioner has been externed and the Order dated 11<sup>th</sup> November, 2024 passed by the Divisional Commissioner, Kokan Division thereby Externment Appeal No.117/2024 filed by the Petitioner questioning the externment has been dismissed.

2) Heard learned Advocate Mr. Ibrahim for the Petitioner and

learned A.P.P. Mr. Patil for the Respondent. Perused the record.

3) **Rule.** Rule is made returnable forthwith. With consent of the parties taken up for final hearing.

4) Factual matrix are that, in view of certain crimes registered against the Petitioner and the preventive action taken in the interregnum did not prove helpful, Panvel City Police Station submitted a proposal to extern the Petitioner. Said proposal was inquired into by the Assistant Commissioner of Police, Panvel Division/First Inquiry Officer. On concluding the inquiry, the ACP returned the proposal with his advice to extern the Petitioner. In turn, the Respondent issued a notice dated 19<sup>th</sup> April, 2024 under Section 59 of the Maharashtra Police Act, 1951 ('the Act', for short) and thereby called upon the Petitioner to show cause as to why he should not be directed to remove himself from the limits of the Districts Raigad and Thane alongwith Navi Mumbai, for a period of two years, invoking Section 56 (1) (a) (b) of the Act. The Petitioner appeared before the Respondent and submitted his written reply to the notice whereby he denied the in-camera statements given by the confidential witnesses 'A' and 'B', contending that the statements are false. Thereafter the Respondent heard the parties and proceeded to consider the matter.

5) Brief details of the crimes, preventive action and the in-camera statements, which were considered as adequate to order the externment, and dismiss the Appeal are as under :-

Sr. No.	Police Station,	Crime Regn. Nos. and Sections	Court Case No.	Current status
1	Panvel City	C.R.No.359/2022, Sec. 37 (1) (3) r/w.135 of the Maharashtra Police Act, 1951.	3350/2022	Subjudice
2.	Panvel City	C.R.No.237/2022, Sec. 37 (1) (3) r/w.135 of the Maharashtra Police Act, 1951.	3151/2022	Subjudice
3.	Kalachowki, Mumbai	C.R.No.23/2022, under Section 10 of the Unlawful Activities (Prevention) Act, 1967 r/w 34 of I.P.C.	—	Under investigation
4.	Panvel City	C.R.No.175/2023, Sections 143, 147, 149, 504 and 506 of I.P.C.	4555/2023	Subjudice

Preventive action taken against Petitioner :-

Sr. No.	Preventive action	
1.	Under Section 151 (1), (3) of Cr.P.C. on 29/09/2022.	Petitioner was kept in detention from 30/09/2022 to 06/10/2022.

5.1) In view of the stories behind registration of the aforesaid crimes, the Respondent-DCP held that, the Petitioner with the help of his associates has committed the offences of unlawful assembly, agitation, committing breach of prohibitory orders, threatening, etc. In the facts, Petitioner is involved in the offences falling under Chapter XVI of the I.P.C. Said activities of the Petitioner had created terror in the Panvel City and Kala Chowki area of Mumbai. It had caused danger to the lives of public. People, who fell victim to acts of the Petitioner, were not openly coming forward to give evidence against him. The in-camera statement of

the confidential witnesses revealed that, the Petitioner has been collecting young boys and giving provoking speeches on caste disputes and anti-social acts thereby making brain wash of said boys and also pressurising them, to join the banned organization 'PFI'. Thus, on the pretext of party-work, the Petitioner was instigating young boys to work for religion. It is held that, there is no substance in the reply submitted by the Petitioner. Therefore, the respondent concluded that, it is expedient to extern the Petitioner to restrain him from continuing his unlawful activities and in the interest of general public. Further, the Respondent observed that, the Petitioner has been residing at old pavel, and the areas of his unlawful activities is Panvel. There are different sources of transportation to travel outside the limits of Panvel. Therefore, a possibility of the Petitioner again committing crimes by residing in *Uran* taluq, cannot be ruled out. Therefore, it is necessary to extern the Petitioner out of the limits of Panvel and Uran Taluqs. Accordingly, the impugned Order of Externment dated 01<sup>st</sup> May, 2024 came to be passed and the Petitioner was externed out of the said *taluu* for a period of fifteen months. Petitioner's Appeal challenging the said Order of Externment turned down by the impugned order dated 11<sup>th</sup> November, 2024. Hence, the Petition.

6) Learned Advocate Mr.Ibraheem for the Petitioner submits that, the first two crimes registered with Panvel City Police Station are not covered under Chapter XVI of I.P.C. Said two crimes were stale. There

was no live-link in between the said two crimes and the Order of Externment. He submits that, when the externment proceeding was initiated, crime at Sr. no.3 was under investigation and it is aailable offence. As such, said crimes could not have been considered to pass the Order of Externment. However, all the said crimes were taken support of to pass the Order of Externment. Thus, in short, according to the learned Counsel for the Petitioner, there was no sufficient objective material to record the subjective satisfaction to pass the Order of Externment. However the Petitioner has been externed. He submits that, no crime was committed within Uran Police Station limits. Therefore, it was not necessary to add *Uran taluq* to the area of externment. He submits that, no reason is recorded to fix the duration of the externment as fifteen months. As such, the impugned Order of Extrnment is excessive and unreasonable. However, without giving any consideration to the aforesaid aspects, the said Order has been upheld and the Appeal of the Petitioner came to be dismissed. As a result, both the impugned Orders are not sustainable in law and liable to be set aside.

7) The learned A.P.P. Mr. Patil, on the other hand, submits that existence of the crime falling under Chapter XVI of the I.P.C. is not only criteria for passing the 'Order of Externment'. He submits that the Petitioner with the help of his associates has committed serious offences. The organisation 'Popular Front of India' has been banned by the

Government, however, the Petitioner held meetings through said organisation to encourage people to join the said organisation with oblique motive. He submits that, the statements of confidential witnesses have confirmed the said fact. In the backdrop and, having regard to the connectivity between the two *taluq*, the 'Order of Externment' for fifteen months was necessary. Hence, the Appeal also came to be dismissed. As such, there is no substance in the Petition, submits the learned A.P.P.

8) It is settled law that, the measure of externment by its very nature is extraordinary. It has the effect of forced displacement from the home and surroundings. Often it affects the livelihood of the person ordered to be externed. Thus, there must exist justifiable grounds to sustain an Order of Externment. In other words, there must be sufficient objective material on the strength of which the externing authority wants to record the subjective satisfaction to pass the Order of Externment.

9) The crime at Sr.Nos.1 to 2 were registered in the year 2022. The proposal for externment was initiated sometimes in February/March, 2024. There was considerable gap between the crime at Sr. No.3 and Order of Externment. In order to justify the externment order, there is need of urgency and promptness on the part of an Officer in initiating the proceeding and taking the proceeding to the logical end, at the earliest. That apart, the crime at Sr. No.3 was still under investigation when the Order of Externment was passed. As such, the said three crimes could not

have been taken into consideration.

10) In *Sachin s/o. Sanjay Raut v/s. The Divisional Commissioner, Amravati Division & Ors.*<sup>1</sup>, in all 8 crimes were considered to direct the externment. The last four crimes were under investigation, therefore, the same were excluded from consideration. The remaining crimes were registered in the year 2018, 2019 and 2020 respectively, two years prior to the issuance of notice. Therefore, the said crimes were held as stale and not sufficient to establish the live-link for passing the externment order. To arrive at this conclusion, this Court noted that in order to justify the live-link, the serious nature of the crime has been made the bone of contention. The serious nature of the stale crime cannot be made the foundation to establish the live-link. The object of externment proceeding is to prevent a person from indulging in such offences repetitively in future, so that, peace and tranquility in the society is maintained. On this Count, no justifiable reason was stated in the externment order. Hence, it is held that, the aforesaid aspect would largely reflect upon the subjective satisfaction asserted in this proceeding by the Respondents and this basic lacuna is sufficient to set aside the externment. Similarly, in the decision between *Imtiyaz Hussain Sayyad Vs. The State of Maharashtra and Ors.*<sup>2</sup>, the learned Single Judge has held that, “It is trite, the crimes which are still under investigation cannot be taken into consideration as depending

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1. *Cril.WP No.253 OF 2023, (Nag. DD. 10/07/2023).*

2. *AIR Online 2024 BOM 84.*

upon the outcome of the investigation, the investigating agency may or may not send the accused for trial”.

11) In *Deepak s/o Laxman Dongre v/s. State of Maharashtra and Ors.*<sup>3</sup>, the Hon’ble Supreme Court held that, an application of mind on the part of the competent authority is required for deciding the duration of the restraint order under Section 56 of the Act. 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. In the case in hand, the Petitioner has been externed for a period of fifteen months from two *taluq.* However, no reason is recorded as to why the period of externment should be fifteen months.

12) Upshot of the aforesaid discussion is that, the crimes considered by the authorities were not sufficient as an objective material to record the subjective satisfaction to pass the Order of Externment. The reason to extern the Petitioner for fifteen months is not discernible from the record. As such, the Order of Externment is excessive and unreasonable. However, the same has been upheld by the Divisional Commissioner thereby dismissing the Appeal. In the backdrop, both the impugned Orders are not sustainable in law and liable to be quashed and set aside. The Petition succeeds, thus. Hence, following Order :-

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3. 2022 ALL.M.R.(Cri.) 761 (S.C.).



**- ORDER -**

- (i) Writ Petition No.5644 of 2024 is allowed.
- (ii) The impugned 'Order of Externment' dated 01<sup>st</sup> May, 2024 passed by the Deputy Commissioner of Police, Zone - 2, Panvel, Navi Mumbai and the Order dated 11<sup>th</sup> November, 2024 passed by the Divisional Commissioner, Kokan Division dismissing the Petitioner's Externment Appeal No.117/2024, are quashed and set aside.
- 13) Petition stands disposed of in above terms. Rule made absolute.

**[SHYAM C. CHANDAK, J.]**

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JAYANI  
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