

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION (STAMP) NO.254 OF 2024

Ramesh Harji Bhura	Petitioner
versus	
The State of Maharashtra and others	Respondents

WITH
INTERIM APPLICATION (STAMP) NO.1393 OF 2024
IN
CRIMINAL WRIT PETITION (STAMP) NO.254 OF 2024

Atul Govind Surwade	Intervenor
versus	
The State of Maharashtra and others	Respondents

Mr.Rajesh V. Adrekar, Advocate for Petitioner.
Mr.Sayaji D. Nangre, Advocate for Intervenor.
Mr.Arfan Sait, APP, for State.
Mr.Mayur Shevale, PSI, Talasari Police Station, present.
Adv.Dhananjay Lokhande, Law Officer, SDO, Dahanu, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th January 2024

PC :

1. Petitioner challenges the order of externment dated 12th July 2023 passed by Respondent no.3 whereby Petitioner has been externed from the area of District Palghar for a period of two years.
2. The order of externment was challenged by Petitioner by preferring appeal before Divisional Commissioner. The appeal was dismissed vide order dated 6th December 2023.
3. The order of externment refers to two cases registered against Petitioner with Talasari Police Station vide CR No.203/2022 and CR No.87 of 2022. Reference is also made to two N.C complaints registered against Petitioner and numbered as NC No.114/2022 and 464/2022.

4. The injured witness in C.R No.87 of 2022 has preferred application for intervention viz.Interim Application (Stamp) No.1393 of 2024.

5. Learned advocate for Petitioner submitted that impugned order is bad in law. Intervenor has no locus to intervene. It was issued after a period of about more than five months. Petitioner has been externed for a period of two years. The externing authority has not recorded subjective satisfaction about externing the Petitioner for the maximum period of two years. Civil litigation is pending in respect to the issue involved in C.R No.87 of 2022. Reliance is placed on the decision of Hon'ble Supreme Court in the case of Deepak Vs. State of Maharashtra and others¹.

6. Learned APP submitted that there is no infirmity in the impugned order. The order reflects application of mind. Petitioner was involved in serious offences. Several persons were involved in C.R No.87 of 2022. The fact that Petitioner has been externed from Palghar District itself indicate that externing authority has applied its mind. There has to be conjoint reading of reasons recorded in the order of externment and the purpose for which Petitioner has been externed. The injury certificate fortifies the fact that several persons were injured. The decision relied upon by Petitioner itself indicate that subjective satisfaction has to be reflected in the order. Elaborate reasons are not reasons. Hence order of externment is required to be confirmed.

7. Considering the nature of proceedings, the intervenor cannot intervene. However, hearing is given to learned advocate for intervenor to assist the Court. Mr.Nangre appearing for Intervenor submitted that Petitioner has not abided by the order of externment. He still continues to stay in the area from which he has been

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externed. Petitioner has to first comply the order. Petitioner has been externed from one district for a period of two years. He submitted that letter issued by Sarpanch of village indicate that Petitioner is roaming in the area from which he is externed. Reliance is placed on decision of this Court in the case of Abdul Hakim Jamirulla Khan @ Bakkal Vs. Divisional Commissioner, Kokan Divisional and others².

8. As stated hereinabove, the externing authority has relied upon cases against Petitioner. The respondents have not initiated any action against Petitioner for breach of order. Petitioner was granted anticipatory bail in C.R No.87 of 2022. The decision of Supreme Court in the case of Deepak Vs. State of Maharashtra and others (supra) indicate that while exercising powers for issuing order of externment, the competent authority is not expected to write a judgment containing elaborate reasons, however, must record its subjective satisfaction to arrive at the conclusion and the externment order should reflect application of mind.

9. Considering the circumstances I pass following order :

ORDER

- (i) Rule;
- (ii) There shall be ad-interim relief in terms of prayer clause (b) till final disposal of writ petition;
- (iii) Hearing expedited;
- (iv) Interim Application (Stamp) No.1393 of 2024 is disposed off.

(PRAKASH D. NAIK, J.)

MST