

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4044 OF 2025

Nilesh @ Nicky Hareshlal Dingra,
Age: 31, Occ.: Nil,
Residing at Barack No. 1660, On plot,
Section-26, Ulhasnagar-421 004
Tq. Ulhasnagar, Dist. Thane.

...Petitioner

Versus

1. The State of Maharashtra
Through its Home Department,
Government of Maharashtra,
Mantralaya, Mumbai – 400 032.
2. Assistant Commissioner of Police,
Ambernath Division, Ambernath.
3. Deputy Commissioner of Police,
Zone – 4, Ulhasnagar, Dist. Thane.
4. Divisional Commissioner of Police,
Konkan Division, Mumbai.

...Respondents

Mr. Suraj N Naik i/b Mr. R D Suryawanshi, for the Petitioner.
Mr. Tanveer Khan, APP for Respondent – State.
PSI – B B Kshirsagar, Vitthalwadi P. S., Thane City.

CORAM : N. J. JAMADAR, J.

DATE : 08th MAY 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. This petition under Articles 226 and 227 of the Constitution of India, assails the legality, propriety and correctness of an order dated 30th January, 2025 passed by the Divisional Commissioner, Konkan Division in Externment Appeal No. 132/2025 whereby the appeal preferred by the appellant against an order of externment dated 12th July, 2024, passed by the Deputy Commissioner of Police, Zone-4, Ulhasnagar, Dist. Thane under the provisions of Section 56 (1) (a) and (b) of the Maharashtra Police Act, 1951 ('the Act, 1951'), came to be dismissed.

3. A notice under Section 59 of the Act, 1951 was issued to the petitioner on 17th May, 2024, calling upon the petitioner to show cause as to why an action of externment be not taken against the petitioner. It was *inter alia* alleged that, the movements, acts or conduct of the petitioner were causing or calculated to cause alarm, danger or harm to persons or property and there were reasonable grounds for believing that the petitioner was engaged or was about to be engaged in the commission of offences involving force or violence or offences punishable under Chapter XII, XVI and XVII of the Indian Penal Code, 1860 ('the Penal Code') and, on account of the terror created by the petitioner, the

witnesses were not willing to come forward to give evidence in public against the petitioner as they feared for the safety of their person or property.

4. Eventually, by an order dated 12th July, 2024, the Competent Authority was persuaded to exempt the petitioner from the limits of Thane, Mumbai City, Mumbai Suburban Districts and Karjat and Panvel Taluka of Raigad District for a term of two years. Reference was made *inter alia* to the following three crimes then registered against the petitioner :-

Sr. No.	P.S.	CR No.	Section	Court Case No.	Current Status
1.	Vitthalwadi	311/2023	328, 188, 273, 34 of IPC and 26(2)(i), 27(3)(e), 3(1)(zz) (iv), 26(2)(iv), 30(2)(a) r/w 59 of Food, Safety and Standards Act, 2006	179/2023	Subjudice
2.	Vitthalwadi	334/2022	326,324,323 r/w 34 of IPC	1202/2023	Subjudice
3.	Vitthalwadi	159/2021	328, 272, 273, 188 of IPC and 26(2)(i), 27(1), 26(2)(iv), 30(2)(a) r/w 59 of Food, Safety and Standards Act, 06	844/2023	Subjudice

5. In addition, a reference was also made to the confidential statements of two witnesses and the initiation of a prohibitory action against the petitioner in the past. Opining that there was no improvement in the behaviour of the petitioner, the Competent Authority externed the petitioner.

6. Being aggrieved, the petitioner preferred an appeal before the Divisional Commissioner under Section 60 of the Act, 1951. By the impugned order, the appeal came to be dismissed by affirming the order of externment passed by the Competent Authority.

7. Being further aggrieved by, and dissatisfied with, the impugned order, the petitioner has invoked the writ jurisdiction.

8. I have heard Mr. Suraj Naik, the learned Counsel for the petitioner, and Mr. Tanveer Khan, the learned APP for Respondent State. With the assistance of the learned Counsel for the parties, I have also perused the material on record.

9. It was submitted on behalf of the petitioner that, there was no live link between the crimes against the petitioner and the measure of externment. Secondly, the petitioner was not provided an effective opportunity of hearing. Thirdly, the Competent Authority has no recorded subjective satisfaction in regard to the period of externment as well as the expansive area from which the petitioner came to be externed though the crimes were registered at Vitthalwadi Police Station, Thane City, only.

10. In opposition, Mr. Khan, the learned APP, supported the externment order. It was submitted that, on account of the reign of terror created by the petitioner, the Competent Authority was fully justified in externing the petitioner. It was further submitted that, during the currency of the externment order, the petitioner committed breach thereof and entered the limits of Ulhasnagar and, therefore, a crime has been registered against the petitioner vide CR No. 0602/2025 for the offences punishable under Section 132 of the Bhartiya Nagarik Suraksha Sanhita, 2023 and Section 142 of the Act, 1951. Therefore, the petitioner is not entitled to any relief, urged the learned APP.

11. Evidently, out of the three crimes registered against the petitioner, CR No. 159/2021 appeared to have been registered in the year, 2021. The show cause notice was issued in the month of May, 2024. A substantial period had elapsed from the date of registration of said crime and the show cause notice, so as to snap the live link between the facts leading to the said crime and externment.

12. Secondly, this Court has perused the statements of confidential witnesses. It does not appear that, the Competent Authority has verified the correctness of the statements of the confidential witnesses. The assertions therein also appeared to be general in nature. It does not appear that, the Competent Authority has recorded a subjective satisfaction on the basis of objective material that, the witnesses were not coming forward to give evidence in public, fearing for the safety of their person or property.

13. Thirdly, the Court finds that, in regard to the externment of the petitioner for the full term of two years, the Competent Authority has not ascribed any reason. In view of the decision of the Supreme Court in the case of

*Deepak s/o Laxman Dongre V/s. State of Maharashtra and Ors.*¹, the Competent Authority is also duty bound to record reasons to justify the externment of the externee for the full term of two years. The following observations of the Supreme Court in the case of *Deepak s/o Laxman Dongre (supra)* are instructive and, hence, extracted below:-

“16. 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 extrnment 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

¹ AIR 2022 SC 1241

the maximum period of two years which is based on material on record. Careful perusal of the impugned order of externment dated 15 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.”

(emphasis supplied)

14. Reverting to the facts of the case, the Competent Authority has simply recorded that, the petitioner was externed for the full term of two years. It appears that, the Competent Authority was not at all alive to the requirement of subjective satisfaction as regards the term of externment as well.

15. For the foregoing reasons, the order of externment passed by the Competent Authority and the impugned

order passed by the Appellate Authority deserve to be quashed and set aside.

16. Hence, the following order.

:: O R D E R ::

i] The Writ Petition stands allowed.

ii] The impugned order dated 30th January, 2025 stands quashed and set aside.

iii] The order of externment dated 12th July, 2024, stands quashed and set aside.

Iv] Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]