



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1204 OF 2025

Vikas Girdhar Rathod,

Age : 35 years, Occu.: Business,

R/o.: Plot No. 24, Gut No.21,

Near Maitri Plotting, Govind Nagar,

Satara Parisar, Chhatripati

Sambhajingar

.... PETITIONER

VERSUS

1. State of Maharashtra,
Through its Secretary,
Home Department, Mantralaya,
Mumbai - 32

2. The Deputy Commissioner of Police,
Circle-2 and Special Executive Magistrate,
Chhatrapati Sambhajinagar

.... RESPONDENTS

....
Mr. Bharat S. Doifode, Advocate for the petitioner
Ms. B. B. Gunjal, APP for Respondent-State

....

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

RESERVED ON : 09/01/2026

PRONOUNCED ON : 13/02/2026.

**JUDGMENT : (PER : Sandipkumar C. More, J.) :**

1. **Rule.** Rule made returnable forthwith. Heard finally at the admission stage with the consent of the learned counsel for the petitioner as well as the learned APP for the respondents–State.

2. The petitioner, Vikas Girdhar Rathod, has challenged the order dated 14/05/2024 bearing No.जा.क्र. पोउपआ/परिमंडळ-२/हादपार-३५-२०२४/१०-२०२५-१६८६, छत्रपती संभाजीनगर passed by the respondent No.2 under Section 56(1)(A)(B) of Maharashtra Police Act, 1951, whereby he has been externed from the Commissionerate of Chhatrapati Sambhajnagar as well as from the limits of District Chhatrapati Sambhajnagar for a period of two years.

3. The learned counsel for the petitioner submits that Respondent No. 2 has failed to apply his mind while passing the impugned order and has erroneously considered material against the petitioner which was wholly insufficient to extern him for a considerable period of two years. According to him, there was no live link between the impugned order and the crimes registered against the petitioner. He further submits that an earlier show-cause notice had been issued to the petitioner, to which he had



submitted his reply; however, no action was taken against him at the relevant time. Thereafter, allegedly considering the political background of the petitioner, he was subsequently forced to face externment proceedings, that too on insufficient material. The learned counsel further submits that the offences considered for externing the petitioner pertained only to Satara Police Station; nevertheless, he was externed from the entire District of Chhatrapati Sambhajnagar. According to the petitioner, he had submitted his reply stating that he had been released on bail in all the said crimes and that the offences were against specific individuals and did not pose any threat or disturbance to public order at large. He has placed reliance on the judgment in ***Dnyaneshwar Sopan Gite v. State of Maharashtra, AIROnline 2019 Bom 3317.***

4. On the contrary, the learned APP strongly opposed the submissions advanced on behalf of the petitioner. According to her, the petitioner has directly approached this Court without availing the statutory remedy of appeal. She submitted that the impugned order was passed after granting due opportunity to the petitioner and that despite such opportunity, the petitioner failed to offer any



plausible explanation regarding his alleged dangerous activities.

She, therefore, prayed for dismissal of the petition.

5. Admittedly, for the purpose of passing the impugned order, a show-cause notice dated 17/03/2025 was issued to the petitioner, referring to three registered offences and one preventive action initiated against him, which are as follows:

Sr. No.	Police Station	CR Number & Sections	Date of registration of offence	Present status
1.	Satara	CR No.341 of 2024, U/s. 394, 504, 506 of IPC	29/07/2024	Subjudice
2.	Satara	CR No.50 of 2024, U/s. 16/10/2023	16/10/2024	Subjudice
3.	Satara	CR No.331 of 2023, U/s. 324, 323, 504 & 506 r.w. 34 of IPC	06/08/2021	Subjudice

Preventive Action

Sr. No.	Police Station	Chapter Case No.	Date of Registration	Disposal
01.	Satara	09/2023 u/s 110 of Cr.P.C.	25.10.2023	Final Bond

However, the show-cause notice appears to have been issued on 17/03/2025, whereas the aforesaid offences pertain to the period from 2021 to 2024. Thus, there is no proximity between the issuance of the show-cause notice and the dates of commission of the alleged offences. Further, considering the nature of the aforesaid offences, they appear to have arisen out of disputes



between private individuals and in some instances, from civil disputes. Therefore, there is no live link between the crimes allegedly committed by the petitioner and the impugned externment order.

6. The petitioner had also submitted his reply to the said show-cause notice, specifically stating that no offence had been registered against him in Jalna District; nevertheless, it was proposed that he be externed not only from Chhatrapati Sambhajnagar District but also from Jalna District. Further, the impugned order makes reference to the statements of Secret Witnesses Nos.1 and 2. However, upon perusal of the said statements, it appears that the witnesses have made only general and vague allegations regarding the alleged criminal behaviour of the petitioner. On the contrary, the acts attributed to the petitioner in those statements do not appear to be of such a nature as to pose a threat to public order at large; at the most, they may give rise to issues pertaining to law and order.

7. It is significant to note that in ***Dnyaneshwar Sopan Gite*** (supra), a Coordinate Bench of this Court has laid down certain



requirements for passing an order of externment, which are as follows:

“30. *The aforesaid discussion shows that both the police and the officer empowered to pass externment order need to act very cautiously in such matters. From the law developed already on this point and the discussion made above, some requirements for externment order and the effects of non complying the requirements can be given and they are as under :-*

(i) *There should be material to justify the application of section 56 of the Act even at the time of issuance of show cause notice.*

(ii) *Before issuing show cause notice, the officer empowered in that regard needs to consider the material made available by police to ascertain as to whether the material is sufficient for prima facie satisfaction. He should also get satisfied that the material is really in existence and the officer is not expected to act on the word, report of the police officer. That degree of satisfaction needs to appear in show cause notice. In other words, the opinion of the officer as mentioned in section 56 of the Act needs to be on the basis of material. Both show cause notice and the final order need to show that this way, there was application of mind.*

(iii) *If there is error in show cause notice like absence of material, but such material is mentioned in show cause notice, that circumstances will be sufficient to set aside the order of externment. Similarly, if the material could not have been considered under section 56 of the Act, the externment order cannot sustain in law. Absence of material even at the time of issuance of notice, but mentioning some material affects the right of hearing of proposed externnee as ordinarily he does not get sufficient time to collect the material of aforesaid nature to refute the allegations made*



in show cause notice. Similarly, absence of material or mentioning the material which could not have been used for such proceeding in show cause notice creates a probability of malice.

- (iv) *The material allegations and general nature of such allegations need to be informed in show cause notice. Only specific particulars which will fix the identity of witnesses, who are unwilling to depose in public against proposed externee are not to be made available to the proposed externee. All other particulars which can be used by proposed externee to show that the degree of satisfaction cannot be attended by the officer concerned need to be given to the proposed externee. The proposed externee has right to know all such other material as that right is a part of principles of natural justice and order involves the aforesaid fundamental rights of proposed externee.*
- (v) *If the order of externment is proposed on the grounds mentioned in section 56(1)(a) of the Act, there need to be many acts of proposed externee available for consideration and these acts must have already caused or there must be probability of causing alarm, danger etc. to person or property in future from the proposed externee. Such activity must be in respect of public order.*
- (vi) *If the proposed externment is on the ground given in section 56(1)(b), both the conditions like proposed externee was engaged or was about to engage in commission of offence as mentioned in this ground and further formation of the opinion by the officer that the witnesses are not willing to come forward to give evidence against such person as mentioned in this ground need to be satisfied and fulfillment of only one conditions is not sufficient. There should be subjective satisfaction on both the requirements and further, the offences need to have relation with public order.*



- (vii) *There should be material for forming opinion at the time of issuing show cause notice that externment order needs to be made in respect of a particular area, may be entire district or part of district and area contiguous to particular district or part of district and that needs to be reflected in show cause notice. Only reason that the particular area is contiguous area will not be sufficient to cover that contiguous area in externment order. Possibility of activity in that area on the basis of material needs to be made out for subjective satisfaction.*
- (viii) *On the basis of nature of material available, the hearing as mentioned in section 59 of the Act needs to be given to proposed externee and in respect of those allegations opportunity needs to be given to the proposed externee to refute the allegations.*
- (ix) *In the externment order, there may not be detail reasons, but mentioning of the material on the basis of which the order is made needs to be there.*

8. In the backdrop of these requirements, if the material against the present petitioner is considered, it reveals that there is no live link between the alleged criminal activities and the date of passing of the impugned order. Moreover, the said criminal activities, at the most, may give rise to issues relating to law and order, but certainly do not amount to a breach of public order. It is also significant to note that a similar show-cause notice was issued to the petitioner on 26/11/2024, to which he submitted his reply on 20/02/2025. However, no order of externment was passed pursuant to the said notice. This clearly indicates that on the



same material, Respondent No. 2 did not deem it fit to pass an order of externment earlier; however, subsequently, the impugned order has been passed on the very same material. This conduct certainly reflects non-application of mind on the part of Respondent No. 2.

9. Further, it is evident that the petitioner has been released on bail in all the aforesaid offences; however, the impugned order does not reflect any consideration of his release on bail in the said crimes. If there had been any violation of the bail conditions by the petitioner, the police machinery ought to have taken recourse to appropriate legal proceedings for cancellation of his bail. Thus, it appears that instead of seeking cancellation of bail, the police authorities have resorted to passing the externment order. In such circumstances, it indicates that the impugned order has been passed without the existence of any live link or proper subjective satisfaction, thereby adversely affecting the fundamental rights of the petitioner.

10. Though the learned APP submitted that the petitioner has not availed the statutory remedy of appeal and has directly challenged the impugned order before this Court, a Coordinate Bench of this



Court, by orders dated 18/11/2024 and 24/04/2025 passed in Criminal Writ Petition No.1895 of 2024, has elaborately considered this aspect and ultimately held that, since an externment order affects the fundamental rights of the petitioner, a writ petition challenging such order is maintainable before this Court.

11. In view of the the above discussion, we pass following order.

ORDER

- A) Writ petition is hereby allowed.
- B) The impugned order dated 14/05/2024 bearing जा.क.पोउपआ/परिमंडळ-२/हादपार-३५-२०२४/ १०-२०२५-१६८६, छत्रपती संभाजीनगर passed by the respondent No.2- is hereby quashed and set aside.
- C) Rule is made absolute in above terms.
- D) The writ petition is accordingly disposed of.

(**ABASAHEB D. SHINDE, J.)** (**SANDIPKUMAR C. MORE , J.)**