



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 29TH DAY OF MAY, 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

CRIMINAL PETITION NO. 101037 OF 2026

(482(Cr.PC)/528(BNSS))

BETWEEN:

SRI. VITTAL
S/O. BALAPPA SALAMANTAPI @ PATIL,
AGE: 54 YEARS,
OCC: AGRICULTURE,
R/O: NINGAPUR,
TQ: MUDHOL,
DIST: BAGAOLKOT - 587 101.

...PETITIONER

(BY SRI. S. M. KALWAD, ADVOCATE)

AND:

1. THE OFFICE OF THE ASSISTANT COMMISSIONER,
JAMAKHANDI,
DIST BAGALKOT- 587101.
2. THE DEPUTY SUPERINTENDENT OF POLICE, SUB DIVISION,
JAMAKHANDI,
DIST: BAGALKOT- 587 101.
3. THE CIRCLE POLICE INSPECTOR,
MUDHOL,





TQ: MUDHOL,
DIST: BAGALKOT - 587 313.

4. THE SUB INSPECTOR OF POLICE,
LOKAPUR,
TQ: LOKAPUR,
DIST: BAGALKOT - 587 122.

5. THE CIRCLE POLICE INSPECTOR,
INDI, TQ: INDI,
DIST: VIJAYAPUR - 586 209.

...RESPONDENTS

(BY SRI.JAIRAM SIDDI, HCGP FOR R1 TO R5)

THIS CRIMINAL PETITION IS FILED U/S. 528 OF BNSS,
2023, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION
IN THE NATURE OF WRIT OF CERTIORARI TO QUASH THE
EXTERNMENT ORDER DATED 24.02.2026 MADE IN NO.
ಕ್ರ/ಎಂಎಜಿ/2025-26/COM NO.399615 PASSED BY THE
RESPONDENT NO.1 u/s. 55 OF KARNATAKA POLICE ACT, 1963
AS ILLEGAL (ANNEXURE-A).

THIS CRIMINAL PETITION, COMING ON FOR ADMISSION
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE GEETHA K.B.



ORAL ORDER

This is the petition filed under Section 528 of Bharatiya Nagarika Suraksha Sanhita 2023 (in short 'BNSS 2023'), praying for issue of Writ or Order or Direction in the nature of Writ of Certiorari to quash the Externment order dated 24.02.2026 made in No. ಕ್ರ/ಎಂಎಜಿ/2025-26/Com No.399615 passed by respondent No.1 under Section 55 of the Karnataka Police Act, 1963 (hereinafter for short 'KP Act') as illegal and issue any other directions.

2. The case of petitioner in nutshell is that petitioner is an agriculturist and resident of Ningapur village. He has not involved in any anti-social activities, not convicted for any offences punishable under provisions of IPC or Bharathiya Nyaya Sanhita, 2023 (in short BNS, 2023) or under any other Special Enactments. Respondent No.2 with political pressure has submitted false report to respondent No.4 and also to respondent No.1 to pass externment order only in respect of petitioner involved in sale of liquor illegally and playing game cards 'Andar



Bahar' and treated this as his livelihood. Then Section 55 of KP Act does not attract. He has mentioned in detail the criminal cases which are lodged against him. Hence, prayed for allowing the petition.

3. Learned HCGP has not filed objections to the petition but orally objected to the petition and supports the order passed by the respondents.

4. From the above facts, the point that arises for consideration is

“Whether the Externment order passed against petitioner dated 24.02.2026 made in No.ಕ್ರ/ಎಂಎಜಿ/2025-26/Com No.399615 passed by respondent No.1 is to be quashed?”

5. Finding of the Court for the following point is in the ***affirmative*** for the following:-

REASONS:

Section 55 of the KP Act empowers the Police Commissioner of City of Bengaluru and for other areas Commissioner who is appointed under Section 7 or to any



other areas in which Government by Notification extended the provisions of this Section to District Magistrate or Sub-divisional Magistrate to restrict the movements of any person. Section 55 is extracted below:

“55. Removal of persons about to commit offences.—Whenever it shall appear in the City of Bangalore 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 Government may, by notification in the official Gazette, extend the provision of this section, to the District Magistrate, or the Sub-Divisional Magistrate having jurisdiction and specially empowered by the Government in that behalf,—

- (a) that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property, or
- (b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, or in the abetment of any such offence, and when in the opinion of such officer witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, or



- (c) that an outbreak of epidemic disease is likely to result from the continued residence of an immigrant,

the said officer may, by an order in writing duly served on him, or by beat of drum or otherwise as he thinks fit, direct such person or immigrant so to conduct himself as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease or to remove himself outside the area within the local limits of his jurisdiction or such area and any district or districts or any part thereof contiguous thereto by such route and within such time as the said officer may specify and not to enter, or return to the said place from which he was directed to remove himself."

6. The respondent No.1 has passed the impugned order dated 24.02.2026 by passing externment order against petitioner by exercising power under Section 55 of the KP Act.

7. As per Section 55(b) of the KP Act, if there are reasonable grounds that the petitioner is engaged or is about to be engaged in commission of an offence involving force or violence, or an offence punishable under Chapter XII and XVI or XVII of Indian Penal Code or in abatement of any of such offence, then the District Magistrate or the Sub-Divisional Magistrate having jurisdiction who is



authorized by Notification in the official gazette may pass
Such externment orders.

8. Chapter XII, XVI and XVII of Indian Penal Code
deals with following offences:-

CHAPTER XII - OF OFFENCES RELATING TO COIN AND
GOVERNEMENT STAMPS

CHAPTER XVI - OF OFFENCES AFFECTING THE HUMAN
BODY

CHAPTER XVII - OF OFFENCES AGAINST PROPERTY

9. The offences alleged against the present
petitioner for which externment order was passed is
extracted in the impugned order itself. According to it, the
cases alleged against petitioner are punishable under
Section 87 of the KP Act and under Sections 32 and 34 of
Karnataka Excise Act, 1965. Amongst these cases, the
petitioner was convicted in a case under Section 87 of KP
Act and already acquitted in a case registered under
Sections 32 and 34 of the Karnataka Excise Act, 1965 and
four other cases are pending against him. Thus,



externment order under Section 55 (b) of the KP Act cannot be passed for these offences.

10. There is no mention in the order that the movement of the petitioner is causing or calculated to cause alarm, danger or harm to any other person or property and thus Section 55 (a) of the KP Act does not attract. Likewise, presence of petitioner in the place would outbreak the epidemic disease is also not alleged against him. Hence, Section 55(c) of the Karnataka Excise Act, 1965 is also not attracted.

11. There is express provision under Section 59 of KP Act that any person aggrieved by the order passed under Section 55 of the said Act may appeal to the Government within 30 days from the date of such order.

12. When there is express Provision in the statute governing a particular subject matter, then there is no scope for invoking or exercising inherent powers of the Court. However, they could be exercised sparingly with great care and caution. The inherent power cannot be



invoked if the matter is covered by express provisions of the statute. But, the plain reading of Sections 59 and 60 of the KP Act reveal that there is no bar against the Court interfering with such order of externment in circumstances as enumerated in Section 60 of the said Act- where the procedure laid down in Section 58 is not followed, where there is no material before the authority concerned upon which it could have based its order and the authority making the order is not of the opinion that witnesses were not willing to come forward to give evidence in public against the persons in respect of whom an order is made under Section 55 of the KP Act.

13. Thus, forming opinion by the authority as to the willingness of the witnesses to come forward in public to give evidence against the persons sought to be proceeded is a must. However, in the instant case, no such opinion is formed by the authority which passes order under Section 55 of the KP Act. Furthermore, as discussed above Section 55(a),(b) and (c) would not be attracted.



14. Considering the above aspects, the impugned order passed by respondent No.1 under Section 55 of the KP Act is not in accordance with law. Without fulfilling any of the ingredients of Section 55 of the KP Act, the impugned order is passed and thus erroneous and not sustainable in law. Hence, this Court proceed to pass the following:-

ORDER

The petition filed under Section 528 of BNSS 2023 is allowed.

Order dated 24.02.2026 made in No.ಕೃ/ಎಂಎಜಿ/2025-26/Com No.399615 passed by respondent No.1 under Section 55 of the Karnataka Police Act, 1963 is hereby quashed.

Pending IAS, if any, stands disposed of.

**Sd/-
(GEETHA K.B.)
JUDGE**

HMB
List No.: 1 Sl No.: 25