



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1930 OF 2026

1. Adil Zaheer Ahmed Shaikh
Aged adult, having address at-
Room No. 15, Ulfat-bi Chawl No.43,
Opp BMC School, Kurla (E),
Mumbai – 400 070.

2. Zain Junaid Khan,
Aged adult, having address at- Room No. 14,
Dhobi Ghat Abbas Seth Chawl, Qureshi Nagar,
Kurla (E), Mumbai – 400 070.

3. Affan Mukhtar Khan,
Aged adult, having address at
Room No. 68, Gaffar Esubmit Chawl,
Bhunter Bhawan, Qureshi Nagar,
Kurla (E), Mumbai – 400 070.

..Petitioners

Versus

1. The State of Maharashtra
(At the instance of Chunabhatti
Police Station, Mumbai)

2. The Deputy Commissioner of Police,
Zone-VI, having office at: Administrative
Building, 4th Floor, R.C. Marg,
Chembur, Mumbai – 400 071.

3. The Senior Inspector of Police,
Chunabhatti Police Station,
Chunabhatti, Mumbai.

4. Deputy Collector and Officer on
Special Duty (Bhumiparamaryada),
Kokan Division, Mumbai,
Kalaghoda, Mumbai – 400 032.

...Respondents

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WRIT PETITION NO. 1931 OF 2026

Mohd. Sameer Mohd Raees Khan,
Aged about 33 years,
having address at Room No. 17,
Gaffar Estate Chawl, Bhandar Bhawan,
Qureshi Nagar, Kurla (E),
Mumbai – 400 070.

...Petitioner

Versus

1. The State of Maharashtra
At the instance of Chunabhatti
Police Station, Mumbai

2. The Deputy Commissioner of Police,
Zone-VI, having office at: Administrative
Building, 4th Floor, R.C. Marg,
Chembur, Mumbai – 400 071.

3. The Senior Inspector of Police,
Chunabhatti Police Station,
Chunabhatti, Mumbai.

4. Deputy Collector and Officer on
Special Duty (Bhumiparamaryada),
Kokan Division, Mumbai,
Kalaghoda, Mumbai – 400 032.

...Respondents

Mr. M.B. Shirsat, with M.A. Khan, for the Petitioners.
Mr. P. P. Malshe, APP, for the Respondents-State.
Mr. Gajanan Gote, ASI, Chunabhatti Police Station, present.

CORAM: N. J. JAMADAR, J.

DATE : 30th APRIL 2026

JUDGMENT:

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



2. By these Petitions under Article 226 and 227 of the Constitution of India, the Petitioners assail the legality, propriety and correctness of an order dated 10th March 2026, passed by the Divisional Commissioner, Konkan Division in Externment Appeal No. 111 of 2025, whereby the Appeal preferred by the Petitioners and co-externees against the order of externment dated 25th July 2025 passed by the Deputy Commissioner of Police, Zone VI, Chembur, Mumbai, thereby externing the Petitioners and co-externees from the limits of of Mumbai City, Mumbai Suburbans, Thane and Raigad Districts, for a term of two years under the provisions of Section 55 of Maharashtra Police Act, 1951 (“the Police Act, 1951”), came to be dismissed by affirming the said order of externment.

3. On 26th April 2025, the Petitioners and other alleged members of the gang were served with a notice under Section 59 of the Police Act, 1951 calling upon them to show cause as to why action under Section 55 of the Police Act, 1951, shall not be taken against Mohammad Sayeed Mohammad Rakib Khan, the alleged gang leader, and Petitioners and other members of the said gang.

4. It was *inter alia* alleged that multiple crimes were registered against gang leader, Petitioners and other members of the said gang and their movements were causing or calculated to cause danger or alarm or reasonable suspicion that unlawful designs were entertained by such gang or members thereof.



5. Eventually, the Competent Authority passed an order of externment thereby externing the Petitioners and other members of the alleged gang from Mumbai City, Mumbai Suburban, Thane and Raigad Districts for a term of two years. The Petitioners and other co-externees preferred an Appeal before the Divisional Commissioner, Konkan Division. By the impugned judgment and order, the Divisional Commissioner, dismissed the Appeal.

6. Being aggrieved, the Petitioners have invoked the writ jurisdiction.

7. I have heard Mr. M.B. Shirsat, the learned Counsel for the Petitioners, and Mr. P. P. Malshe, the learned APP for the Respondent-State, at some length.

8. At the outset, Mr. Shrisat, the learned Counsel for the Petitioners submitted that by an order dated 13th March 2026 in Criminal Writ Petition No. 1011 of 2026, this Court has quashed and set aside the externment order qua Murtuza Mustakin Qureshi and Fahad Mustakin Qureshi, the co-externees. The Petitioners are thus entitled to the same dispensation as the very same material was arrayed against the Petitioners.

9. Mr. Shirsat would urge qua Adil Zaheer Ahmed Shaikh, the Petitioner in WP No. 1930 of 2026, like Murtuza Qureshi and Fahad Qureshi only one crime, i.e. CR No. 100 of 2025, has been registered and



qua Mohd Sameer Mohd Raees Khan, the Petitioner in WP No. 1931 of 2026, in addition to the said CR No. 100 of 2025, two more crimes have been shown, namely, CR No. 145 of 2008 registered with Nehru Nagar Police Station and CR No. 521 of 2023 registered with Chunabhatti Police Station. Mr. Shirsat would urge the non-application of mind becomes starkly evident as in Case 107/PW/2009 arising out of CR No. 145 of 2025 registered with Nehru Nagar Police Station, the Petitioner and others were duly acquitted and even in CR No. 521 of 2023 registered with Chunabhatti Police Station a report under Section 169 of the Code of Criminal Procedure, 1973 (“the Code”) was filed.

10. Thus both the Petitioners are similarly circumstanced like Murtuza Qureshi and Fahad Qureshi and, therefore, on parity of reasons the impugned orders deserve to be quashed and set aside.

11. Mr Malshe, the learned APP, fairly submitted that the Petitioners are similarly circumstanced and only in CR No. 100 of 2025 registered with Chunabhatti Police Station, the Petitioners have been arraigned, alongwith the co-externees.

12. In Criminal Writ Petition No. 1011 of 2026 while quashing the externment order as well as the order of the Appellate Authority in Appeal No. 118 of 2025 and 119 of 2025, this Court had observed *inter alia* as under:

“11. Section 55 of the Police Act, 1951 empowers the Competent Authority to address the mischief caused by



collective strength and concerted action of the members of a group or gang. The provisions contained in Section 55 are intended to address a situation which emerges on account of the threat posed by the movements or encampments of the members of a group or gang as such. Collective action and responsibility is the linchpin of the provisions contained in Section 55 of the Police Act, 1951.

12. In the case of *Ahammad Mainuddin Shaikh V/s. The State of Maharashtra and Anr.*¹, a Division Bench of this Court had an occasion to consider the import of the provisions contained in Section 55 of the Act, 1951, After analyzing the provisions of the Act, 1951, the Division Bench observed that Section 55 would be applicable only when the persons are seen to be acting as members of the gang or body of persons and it is only then that action under Section 55 of the Act can be taken and which is to be taken against all members and not only a few of them selectively. The observations in paragraphs 8 and 14 read as under :

“8.....Upon a careful reading of this section, it becomes clear that, whenever it appears to the competent authority that the movement or encampment of any gang or body of persons in the area under his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body of persons or by its members, such officer may by notification addressed to the leaders or chief men of such gang or body of persons and suitably published, issue two types of directions. The first direction is about regulating of

¹ 2013 ALL MR (Cri) 3804.



conduct of such gang or body of persons in a manner prescribed in the direction in order to prevent violence and alarm. Such direction, in the alternative, can also be in the form of an order for dispersal of members of such gang or body of persons. The second direction which follows the first one, is about removal of each of the members of the gang or body of persons outside the area within the local limits of jurisdiction of the competent authority. In suitable cases, the order of removal can also be from district or its parts or together with contiguous districts or parts thereof. This second direction, in order to be reasonable, has to be passed for a definite period of time. In the entire section, there is common thread of participation by all and collective action against all that holds together all its parts. The section starts with gang or body of persons, sails through the dangerous impressions that the movement or encampment of gang or body of persons creates and ends with a direction of removal passed against each of the members of the gang or body of persons. This common thread is the essence of Section 55 and that is the mandate of the legislature. In other words, Section 55 would be applicable only when the persons are seen to be acting as members of the gang or body of persons and it is only then that action under Section 55 of the Act can be taken and which is to be taken against all members and not only a few of them selectively.

(emphasis supplied)



13. In the case of *Vijay Lalaso Jadhav V/s. State of Maharashtra and Ors.*², another Division Bench of this Court enunciated the law as under :

“8..... Section 55 of the Bombay Police Act contemplates collective action against the gang or body of persons and therefore, the final direction which is required to be issued in terms of the said Section, will have to be necessarily against each of the members of the gang and not against one or a few of them on selective basis. It is therefore, apparent that an illegality has been committed by both the Authorities, i.e. the Competent Authority and the Appellate Authority by passing the externment order and confirming the same only qua the Petitioners and not against the other members of the alleged gang.”

(emphasis supplied)

14. On the aforesaid touchstone, reverting to the facts of the case, evidently, the petitioners are not arraigned in any of the crimes registered against Mohameed Sayeed, the alleged gang leader, or other members of the gang. The petitioners seem to have been roped in on the basis of registration of CR No.100/2025 for the offences punishable under Sections 189(3), 191(2), 190 and 132 of the BNS, 2023 only. A perusal of the final report filed in the said crime indicates that on 15th February, 2025, the police party found that two groups of persons were involved in a fight. When the police party tried to intervene, the gang leader and his nephew Zaid, pushed the police party aside and fled away. A report was, thus, came to be lodged with the allegations that the members

² 2014 ALL MR (Cri) 1277.



of the said two groups, which were engaged in the fight, including Mohammad Sayeed, the alleged gang leader, and Zaid, a member of the alleged gang, formed an unlawful assembly and committed rioting, and used criminal force to a public servant with intent to deter the said public servant from discharging his duty as such public servant. The petitioners have been arraigned as the members of the said unlawful assembly.

15. Even if the allegations in the said FIR are taken at par, it does not appear that the petitioners were involved in the offences as the members of the gang allegedly led by Mohammad Sayeed. On the contrary, it appears that two groups of persons were involved in a fight and thereby they formed an unlawful assembly and used criminal force to the public servants, when the later tried to intervene. There is no clarity as to whether the petitioners were in fact the members of the alleged gang led by Mohammad Sayeed. At best, the offences arrayed against the petitioners are individualistic in nature rather than a part of a concerted action by a group or gang. In substance, the acts attributed to the petitioners lack the element of gang or group based criminal conduct. Thus, the externment order suffers from a fundamental error.”

13. The aforesaid reasons govern the case of the Petitioners with equal force, on facts and in law. Indeed on parity of reasons the impugned order as well as the externment order deserve to be quashed and set aside.



14. Hence, the following order:

: O R D E R :

- (i) The Petitions stand allowed.
- (ii) The impugned order dated 10th March 2026 as well as the order of externment dated 25th July 2025 stand quashed and set aside.
- (iii) Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]