



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 380 OF 2026

Omkar Shriram Bhagat
Age 27 years, Occupation: Business,
Residing at Sangeeta Dhara Bungalow,
Near Swami Vivekanand School,
Tukaram Road, Ahire Road, Dombivali (E),
Tq. Kalyan, Dist. Thane.

...Petitioner

Versus

1. Deputy Commissioner of Police,
Zone – III, Kalyan (West)
2. The State of Maharashtra
(At the instance of Dombivali P. S.
Tq. Kalyan, Dist. Thane)
Raj Mandir Complex, Near Post Complex
Mira Road (East), Tal & Dist. Thane.

...Respondents

Mr. Vinod Kashid a/w Mr. Sumit Bhoite, for the Petitioner.
Mr. D J Haldankar, APP for Respondent – State.
PSI – S K Bhujbal, Dombivali P. S.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 26th MARCH 2026
PRONOUNCED ON : 09th APRIL 2026

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JUDGMENT:

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



2. This petition under Article 226 and 227 of the Constitution of India, assails the legality, propriety and correctness of an order dated 10th December, 2025 passed by the Divisional Commissioner, Konkan Division in Appeal No. 214/2024 whereby the said appeal preferred by the petitioner under Section 60 of the Maharashtra Police Act, 1951 (‘the Act, 1951), came to be dismissed by affirming an order of externment dated 19th November, 2024, passed by the Deputy Commissioner of Police, Kalyan, thereby externing the petitioner for a term of two years from the limits of Thane, Mumbai, Mumbai Suburban, Raigad Districts under Section 56(1)(a) and (b) of the Act, 1951.

3. On 16th November, 2024, a notice was served on the petitioner under Section 59 of the Act, 1951 calling upon the petitioner to show cause as to why the action of externment under Section 56 of the Act, 1951, should not be taken against the petitioner. A reference was made to three crimes registered against the petitioner at Dombivali and Manpada Police Stations and the prohibitory action initiated against the petitioner in the past. It was *inter alia* alleged that, the petitioner’s movements and acts were causing or calculated to cause alarm, danger or harm to



person 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 punishable under Chapters XVI and XVII of the Indian Penal Code, 1860 ('the Penal Code'), and on account of the reign of 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. A reference was made to the confidential statements of the witnesses

4. Eventually, by the impugned order, the Competent Authority ordered the externment of the petitioner from the limits of Thane, Mumbai, Mumbai Suburban and Raigad Districts for a term of two years invoking the powers under Section 56(1)(a) and (b) of the Act, 1951.

5. Being aggrieved, the petitioner preferred an appeal before the Divisional Commissioner. The Appellate Authority found no reason to interfere with the order of externment. It was observed that, the Competent Authority had justifiably invoked the power under Section 56(1)(a) and (b) of the Act, 1951.



6. Being further aggrieved the petitioner has invoked the writ jurisdiction.

7. Mr. Vinod Kashid, the learned Counsel for the petitioner, submitted that, the crimes taken into account by the Competent Authority are stale. There was no nexus between the said crimes and the order of externment. Secondly, the alleged statements of the confidential witnesses as referenced in the order of externment were vague and general. Thirdly, the order of externment suffers from the vice of non-application of mind as the Competent Authority has not spelled out any reason for externing the petitioner for the full term of two years.

8. In contrast, Mr. Haldankar, the learned APP, supported the impugned order. Banking upon the statements of the confidential witnesses which were tendered for the perusal of the Court, Mr. Haldankar would submit that, the petitioner had created such a reign of terror that the witnesses were dissuaded from giving evidence in public against the petitioner as they feared for the safety of their person or property. In such circumstances, to disable the petitioner from committing



the offences punishable under Chapters XVI and XVII of the Penal Code, the measure of externment was indispensable.

9. The Competent Authority has taken into account the following crimes registered the petitioner : -

S.No.	Police Station	C.R. No.	Sections	Current Status
1	Dombivali	138/2017	302, 342, 323, 143, 147, 148, 149, 504, 506 of Indian Penal Code r/w 3, 25, 27, 30 of Indian Arms Act.	Subjudice
2	Manpada	626/2021	394, 392, 323, 504, 506, 34 of Indian Penal Code.	Subjudice
3	Dombivali	408/2023	324, 504, 506, 143, 147, 148, 149 of Indian Penal Code r/w 37(1),(3), 135 of Maharashtra Police Act.	Subjudice

10. Evidently, the CR No. 138/2017 (Serial No. 1) was registered in the year, 2017 and CR No. 626/2021 (Serial No. 2) was registered in the year 2021. The show cause notice was issued to the petitioner on 16th November, 2024. The initiation of action of externment on the basis of a crime which was registered against the petitioner in the



year, 2017 raises the issue of live link between the conduct of the petitioner, as reflected in registration the said crime, and the measure of externment. Even in respect of the crime registered at Manpada Police Station i.e. CR No. 626/2021 (Serial No. 2), there was a timelag of about three years in initiating the action of externment. The third crime i.e. CR No. 408/2023 appears to be a fall out of the offence registered against the petitioner and others vide CR No. 138/2017. Thus, the aspect of the nexus between the aforesaid crimes and the measure of externment assumes significance.

11. The consideration of the crimes which appeared to have been registered in the distant past and, thus, stale, from the perspective of the initiation of action of externment bears upon the application of mind by the Competent Authority. The consideration of such crimes justifies an inference that the Competent Authority took into account the material which ought not to have been considered. If those crimes registered at Serial Nos. 1 and 2 are eschewed from consideration, the measure of externment cannot be sustained on the basis of CR No.



408/2023 alone. As noted above, the said crime appears to be an outcome of the enmity between the petitioner and his associates, on the one part, and the informant party in CR No. 138/2017, on the other part.

12. The challenge to the externment order on the ground of non-application of mind as to the term of externment appears to carry substance. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *Deepak s/o Laxman Dongre V/s. State of Maharashtra and Ors.*, wherein the Supreme Court, after adverting to the provisions of Section 58 of the Act, 1951, underscored the necessity of arriving at the subjective satisfaction regarding the term of externment also on the basis of objective material. It was ruled that, where the externee is externed for a maximum permissible period of two years, without recording the subjective satisfaction regarding the necessity of the externment for a full term, it would amount to imposing unreasonable restrictions on the fundamental rights guaranteed under clause (d) of Article 19(1) of the Constitution of India. The observations in paragraph No.16 of the said judgment 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 externment 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 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)

13. In the case at hand, no reasons have been ascribed by the Competent Authority to extern the Petitioner for the full term of two years. It appears that the Competent Authority was not alive to the requirement of recording a subjective satisfaction based on objective material in regard to the term of externment. Thus, the order of externment impinges upon the fundamental freedom of the Petitioner.

14. For the foregoing reasons, the externment order as well as the impugned order deserve to be quashed and set aside.

15. Hence, the following order.

:: O R D E R ::

i] The Writ Petition stands allowed.

ii] The impugned order dated 10th December, 2025 as well as the order of externment dated



19th November, 2024, stand quashed and set
aside.

iii] Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]