



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4881 OF 2025

Salman Siraj Naje ...Petitioner

Versus

1. The State of Maharashtra
2. Sub-Divisional Magistrate, Karjat, Taluka
Karjat, District Raigad
3. Divisional Commissioner, Konkan
Division, Mumbai, Appellate Authority,
Mumbai Division, Mumbai ...Respondents

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2026.03.17
20:42:33 +0530

Mr. Vishal Patil, a/w Afsar Ansari and P. R. Rathod, for the
Petitioner.

Mr. D. J. Haldankar, APP for the State.

CORAM: N. J. JAMADAR, J.
Reserved On: 5th MARCH, 2026
Pronounced On: 17th MARCH, 2026

JUDGMENT:-

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

2. By this petition under Articles 226 and 227 of the
Constitution of India, the petitioner takes exception to an order
dated 14th August, 2025 passed by the Divisional Commissioner,
Konkan Division, Mumbai, in Appeal No.73/2025, whereby the
appeal preferred by the petitioner under Section 60 of the
Maharashtra Police Act, 1951 ("the Act, 1951") against an order



of externment dated 27th May, 2025, passed by the Sub-Divisional Officer, Karjat, under the provisions of Section 56(1) (a) and (b) of the Act, 1951, came to be dismissed by affirming the said order of externment.

3. On 30th December, 2024, a notice was served on the petitioner under Section 59 of the Police Act, 1951 calling upon the petitioner to show cause as to why action should not be taken against the petitioner under the provisions of Section 56 of the Police Act, 1951 as the acts and movements of the petitioner were causing or calculated to cause alarm, danger, or harm to the person or property, and that there were reasonable grounds to believe that the petitioner was engaged or was about to engaged in the commission of offences involving force or violence, and the conduct of the petitioner appeared to be prejudicial to the maintenance of public order and despite prohibitory action, there was no improvement in the behaviour of the petitioner.

4. After appraisal of the material on record and the cause shown by the petitioner, the Sub-Divisional Officer passed an order on 27th May, 2025 observing, *inter alia*, that crimes were registered against the petitioner since the year 2016, and even during the pendency of the externment proceedings, an offence



punishable under Section 194(2) of the Bharatiya Nyaya Sanhita, 2023 ("BNS, 2023"), came to be registered against the petitioner. If the petitioner was not externed, a serious law and order situation was likely to arise. Thus, the petitioner came to be externed from the limits of Raigad District for a term of one year.

5. Being aggrieved, the petitioner preferred an appeal before the Divisional Commissioner under Section 60 of the Police Act, 1951. By the impugned order, the Divisional Commissioner was persuaded to dismiss the appeal.

6. Being further aggrieved, the petitioner has preferred this petition.

7. I have heard Mr. Vishal Patil, the learned Counsel for the petitioner, and Mr. D. J. Haldankar, the learned APP for the State, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record.

8. Mr. Patil, the learned Counsel for the petitioner, submitted that the order of externment suffers from the vice of non-application of mind in as much as the crimes in which the petitioner has been acquitted, or 'C' Summary/NC final reports were filed, have been taken into account. Secondly, the



Externment Authority has considered the offences under the Maharashtra Animal Preservation Act, 1976 and The Prevention of Cruelty to Animals Act, 1960, which do not fall within the ambit of clause (b) of sub-section (1) of Section 56 of the Police Act, 1951. Thirdly, the Externment Authority as well as the Appellate Authority have ascribed reasons which are far beyond the causes enumerated in Section 56 of the Police Act, 1951 to justify the order of externment.

9. Mr. Haldankar, the learned APP for the State, resisted the submissions on behalf of the petitioner. Mr. Haldankar would urge that, the material on record would indicate a consistent course of violent and unlawful actions on the part of the petitioner. A number of offences against the persons or property, and in relation to cruelty to the animals, have been registered against the petitioner. Even during the pendency of the externment proceedings, an offence punishable under Section 194(2) of BNS, 2023 came to be registered against the petitioner. As the petitioner can be said to have created a reign of terror and thereby caused alarm or danger to the persons or property, the externment order was justifiably passed by the Competent Authority, submitted Mr. Haldankar.



10. The petitioner was ordered to be externed by invoking the provisions contained in Section 56(1)(a) and (b) of the Act, 1951. The measure of externment, by its very nature, is extraordinary. It has the effect of forced displacement from the home and surroundings. Often, it affects the livelihood of the person ordered to be externed. Thus, there must exist a justifiable ground to sustain an order of externment. The order of externment, therefore, must be strictly within the bounds of the statutory provisions. Under clause (a) of sub-Section (1) of Section 56, the externing authority must be satisfied on the basis of the objective material that the movements or acts of the person to be externed are causing or calculated to cause alarm, danger, or harm to person or property. Under clause (b) of Section 56(1) there must be an objective material on the strength of which the externing authority must record subjective satisfaction that there are reasonable grounds for believing that the externee is engaged or about to be engaged in the commission of offences involving force or violence. Mere registration of a number of offences by itself does not sustain an externment under Section 56(1)(b) of the Act. The offences must either involve element of force or violence or fall under Chapters XII, XVI and XVII of the Indian Penal Code. In addition, the



externing authority must record satisfaction that the witnesses are not willing to come forward to give evidence in public against the externee by reason of apprehension on their part as regards the safety of their person or property.

11. In effect, to sustain an action of externment under sub-clause (b), the offences the externee has engaged in must be under one of the Chapters enumerated therein, and that the acts or conduct of the externee are such that the witnesses are terrified and dissuaded from giving evidence against the externee in public fearing for safety of their person or property.

12. The Competent Authority has taken into account the following crimes registered against the petitioner:

Sr. No.	Police Station	C. R. No.	Sections	Current status
1	Neral	02 of 2016	307, 326, 143, 147, 148, 149 of IPC	'C' Summary Report referred to the Court
2	Neral	119 of 2019	5(a), 5(b) r/w 9 of the Animal Preservation Act with 11(1)(d)(j) of the Prevention of Cruelty to Animals Act	Pending
3	Neral	77 of 2020	324, 504, 427 of IPC	NC final summary report referred to the Court
4	Neral	98 of 2020	379, 511 34 of the IPC	By order dated 26/10/2020 released on by paying the panalty.
5	Neral	142 of 2020	324, 504 of IPC	Acquitted
6	Neral	153 of 2021	5(a), 5(b) r/w 9 of the	Pending



			Animal Preservation Act with 11(1)(d)(j) of the Prevention of Cruelty to Animals Act	
7	Neral	84 of 2023	429, 201 with the Animal Preservation Act (a)(b), 9	Pending
8	Neral	290 of 2023	Animal Preservation Act (a)(b), 9 with 11(1)(d)(j) of the Prevention of Cruelty to Animals Act	Pending
9	Neral	331 of 2023	354, 324, 147, 148, 149, 427 of the IPC and 37(1)(3), 135 of Mumbai Police Act	Pending
10	Neral	246 of 2024	194(2) of BNS, 2023	Pending

13. It seems that, out of the seven crimes registered against the petitioner for the offences punishable under the Indian Penal Code, the petitioner has been acquitted in a prosecution arising from one crime i.e. CR No.142/2020 (Sr.No.5); and in CR No.2/2016 (Sr.No.1), 'C' Summary Report has been filed, and in CR No.77/2020 (Sr. No.3) NC Final Summary Report has been submitted. It seems that, the proceedings arising out of CR No.98/2020 have also terminated by an order dated 26th October, 2020. CR No.84/2023 (Sr. No.7) seems to have been registered for having committed mischief punishable under Section 429 of the Penal Code and for the offences punishable under the Maharashtra Animal Preservation Act. Likewise, three crimes i.e. CR No.119/2019 (Sr.No.2), CR No.153/2021 (Sr No.6) and CR No.290/2023 (Sr. No.8) are registered for the offences punishable under the Maharashtra Animal



Preservation Act and the Prevention of Cruelty to Animals Act.

Evidently, these crimes do not fall within the ambit of the offences covered by clause (b) of Section 56(1) of the Police Act, 1951. Even CR No.246/2024 (Sr. No.10) which was allegedly registered during the pendency of the externment proceeding, is not covered by clause (b) of Section 56(1) of the Police Act, 1951.

14. As noted above, mere registration of the crimes for the offences covered by clause (b) of Section 56(1) of the Police Act, 1951 is of no significance. The Externment Authority must further record subjective satisfaction on the basis of the objective material that on account of the reign of terror created by the externnee, the witnesses were not coming forward to give evidence against the externnee in public fearing for the safety of their person or property.

15. In the case at hand, the externment order singularly lacks consideration on the aspect of the witnesses not coming forward to give evidence against the externnee in public. Neither the Competent Authority has considered the statements of the confidential witnesses, nor any objective opinion to that effect has been recorded.

16. The conspectus of aforesaid consideration is that the externment order is vitiated on account of being influenced by



irrelevant considerations. To put it in other words, the Competent Authority erred in taking into account the crimes in which the petitioner has already been acquitted or 'C' Summary/NC Final Report has been filed, and the offences which are not covered by clause (b) of Section 56(1) of the Police Act, 1951. Furthermore, the failure to record the opinion that the witnesses were not coming forward to give evidence in public against the petitioner fearing for the safety of their person or property, on the basis of objective material, renders the externment order infirm. The Appellate Authority also failed to correct the errors committed by the Competent Authority.

17. Resultantly, the petition deserves to be allowed.

18. Hence, the following order:

: O R D E R :

- (i) The petition stands allowed.
- (ii) The impugned order dated 14th August, 2025 as well as the order of externment dated 27th May, 2025 passed by the Competent Authority stand quashed and set aside.
- (iii) Rule made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]