

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1700 OF 2026

Saeed Ahmad Abdul Wahid Chaudhary

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

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*Ms. Payoshi Roy a/w Ulkesh Gangurde & Palak Dubey i/b Ibraheem K. M.,
for the Petitioner.*

Ms. S. M. Yadav, APP, for the Respondent-State.

Coram: Madhav J. Jamdar, J.

Date: July 02, 2026

JUDGMENT:

1. Heard Ms. Roy, learned Counsel appearing for the Petitioner and Ms. Yadav, learned APP for the Respondent-State.
2. The challenge in this Writ Petition filed under Articles 226 and 227 of the Constitution of India is to the Order dated 3rd December 2025 passed by the Deputy Commissioner of Police, Zone-6, Chembur, Mumbai in Externment Order No. 472/C/43 as also the Order dated 27th March 2026 passed by the Divisional Commissioner, Konkan Division in Externment Appeal No. 188/2025.
3. It is the submission of Ms. Roy, learned Counsel for the Petitioner that the Petitioner is belonging to the Social Democratic Party of India (**SDPI**), which is registered with the Election Commission of India under

Section 29A of the *Representation of the People Act, 1951* as a political party. The Petitioner is the Secretary of the SDPI. She submits that all FIR which have been mentioned in the impugned Orders are mainly under Section 188 of the *Indian Penal Code, 1860* ("**IPC**"). She submits that certain decisions of the Government of India were opposed by the Petitioner and his political party being Social Democratic Party of India and, therefore, agitations/*morchas/dharnas* were arranged. She submits that therefore the impugned Orders of Externment passed under Sub-Section 1(a) and 1(b) of Section 56 of the *Maharashtra Police Act* have been passed without any subjective satisfaction and without any basis for the same. It is further submitted that the action taken is *mala fide* action. She also relied on the decision of the Supreme Court in ***Anuradha Bhasin v. Union of India***¹ and the decision of the Gujarat High Court in ***Mohammad Kaleem Taufiq Ahmed Siddiqui v. State of Gujarat***².

4. On the other hand, Ms. Yadav, learned APP, points out the detailed contentions raised in the Affidavit dated 30th June 2026 of the Deputy Commissioner of Police as also reasons given in the impugned Orders. She points out certain slogans given by the Petitioner and other Protesters. She submits that the *morchas/dharnas/agitations* were held although permission was refused by the Police Authorities. She submits

1 (2020) 3 SCC 637

2 R/Special Criminal Application No.8894 of 2020, decided on 26th August 2021

that therefore action taken is in accordance with law.

5. It is an admitted position that, the Petitioner in his capacity as the Secretary of the Social Democratic Party of India, has arranged agitations/*morchas/dharnas* with respect to the certain decisions taken by the Government of India. The action is taken under Section 56 1(a) of the *Maharashtra Police Act*. Relevant portion of Section 56 of the *Maharashtra Police Act* reads as under:

"56. Removal of persons about to commit offence.—
[(1)] Whenever it shall appear in [Brihan Mumbai] 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 State Government may, by notification in the Official Gazette, extend the provisions of this section, to the District Magistrate, or the Sub-Divisional Magistrate specially empowered by the State 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 (XLV of 1860), or in the abatement 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, ..."

6. Thus, what is contemplated by Section 56 1(a) is that the movements or acts of any person are causing or calculated to cause

alarm, danger or harm to person or property then action of externment can be taken. Sub-Section 1(b) of Section 56 provides 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 IPC. All these offences are against human body.

7. There is no material on record to show that the movements or acts of the Petitioner are causing or calculated to cause alarm, danger or harm to person or property. In all these FIR, the allegation is that the Petitioner, in his capacity as the Secretary of the Social Democratic Party of India, has arranged agitations/*morchas/dharnas*, opposing certain decisions taken by the Government of India. The other allegation is that such agitations/*morchas/dharnas* have been arranged without permission of the Police. The same is an offence under Section 188 of the IPC and maximum punishment is of simple imprisonment of one month. However, that cannot be a ground for passing the externment order under the provisions of the *Maharashtra Police Act*.

8. There is substance in the contention raised by Ms. Roy, learned Counsel for the Petitioner, that the action taken is a *mala fide* action.

9. Although the Externment Proposal, the details of which are set out in the Affidavit-in-Reply, records that the movements and acts of the Petitioner are causing or are calculated to cause, alarm, danger and

harm to the public and property, perusal of the FIRs on the basis of which action is taken and the gist of which is set out in the Affidavit-in-Reply shows that the only allegation is that the Petitioner has arranged agitations/*morchas/dharnas* against certain decisions of the Union of India and given slogans. Thus, the subjective satisfaction recorded by the authorities that movements and acts of the Petitioner are causing or are calculated to cause, alarm, danger and harm to the public and property, is without any material to support the same. Thus, the subjective satisfaction is vitiated.

10. It is settled legal position that an order of externment is an extraordinary measure and effect of such order is of depriving a citizen of his fundamental right of free movement throughout the territory of India³.

11. Articles 19 and 21 of the Constitution of India *inter alia* contemplates that not only the citizens have the freedom of speech and expression, but they also have the right to live with dignity.

12. The action taken by the Respondent–State of Maharashtra of externing the Petitioner, merely for opposing certain decisions of the Government of India, affects the Petitioner's fundamental right of freedom of speech and expression and also right to live with dignity.

³ Deepak s/o Laxman Dongre v. State of Maharashtra, 2022 SCC OnLine SC 99

13. Ms. Roy, learned Counsel for the Petitioner relied on the decision of the Supreme Court in **Anuradha Bhasin** (supra), as also the decision of the Gujarat High Court in **Mohammad Kaleem Taufiq Ahmed Siddiqui** (supra).

14. The Supreme Court in **Anuradha Bhasin** (supra), in the context of Section 144 of the *Code of Criminal Procedure, 1973*, has held that the power under said Section cannot be used to suppress legitimate expression of opinion or grievance or exercise of any democratic rights.

15. The Gujarat High Court in **Mohammad Kaleem Taufiq Ahmed Siddiqui** (supra) in a similar case, wherein an order of externment had been passed against the Petitioner in that case for protesting a decision of the Union of India, observed that a citizen cannot be subjected to externment merely for raising grievances against the Government and, therefore, the order of externment was liable to be set aside.

16. The said observations of the Supreme Court and the Gujarat High Court are squarely applicable to the present case.

17. Accordingly, the Writ Petition is allowed by passing the following Order:

ORDER

Order dated 3rd December 2025 passed by the Deputy Commissioner of Police, Zone-6, Chembur, Mumbai in Externment Order No. 472/C/43 as also the Order dated

27th March 2026 passed by the Divisional Commissioner,
Konkan Division in Externment Appeal No. 188/2025 are
quashed and set aside.

[Madhav J. Jamdar, J.]