



2026:DHC:8110



\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**# **CNR No. DLHC010226052026**+ **W.P.(CRL) 1617/2026 & CRL.M.A. 16145/2026**Date of decision: **17.09.2026**

RAKESH

.....Petitioner

Through: Mr. Arpit Batra, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) AND ANRRespondents

Through: Ms. Rubali Bandhopadhyaya, ASC
along with SI Prajjwal.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petitioner seeks to challenge the order of externment dated 12.03.2026 passed by the Addl. Deputy Commissioner under Section 47 of the Delhi Police Act, 1978 [**DP Act**] and the appellate order dated 29.04.2026 passed by the appellate authority dismissing the petitioner's appeal.
2. Learned counsel appearing for the petitioner submits that the impugned orders are wholly illegal and improper. It is contended that merely on the basis of two cases under DP Act and two cases under Section 33 of the Delhi Excise Act, the petitioner ought not to have been extended the power under Section 47 of DP Act.



3. The respondents were required to specifically satisfy themselves whether the petitioner is a threat to the society.
4. Section 47 of the DP Act reads as under:

“47. Removal of persons about to commit offences. - Whenever it appears to the Commissioner of Police-

- (a) that the movements or acts of any person are causing or are 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, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code 45 of 1860), or under Section 290 or Secs. 489-A to 489-E (both inclusive) of that Code or in the abetment of any such offence; or*
- (c) that such person-*
 - (i) is so desperate and dangerous as to render his being at large in Delhi or in any part thereof hazardous to the community; or*
 - (ii) has been found habitually intimidating other persons by acts of violence or by show of force; or*
 - (iii) habitually commits affray or breach of peace or riot, or habitually makes forcible collection of subscription or threatens people for illegal pecuniary gain for himself or for others; or*
 - (iv) has been habitually passing indecent remarks on women and girls, or teasing them by overtures;*

and that in the opinion of the Commissioner of Police 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, the Commissioner of Police may, by order in writing duly served on such person, or by beat of drum or otherwise as he thinks fit, direct such person to so conduct himself as shall seem necessary in order to prevent violence and alarm or to remove himself outside Delhi or any part thereof, by such route and within such time as the Commissioner of Police may specify and not to enter or return to Delhi or part thereof, as the case may be, from which he was directed to remove himself.

Explanation.- A person who during a period within one year immediately preceding the commencement of an action under this section has been found on not less than three occasions to have committed or to have been involved in any of the acts referred to in



this section shall be deemed to have habitually committed that act.”

5. Learned counsel appearing for the petitioner also relies upon the decision in the case of ***Mahesh Shrivastava @ Jeeya v. State (Govt. of NCT of Delhi)***.¹ The petitioner has three school going children and aged mother. The externment order is violating his fundamental right.

6. The submissions are opposed by learned counsel appearing for the respondents. It is also contended that two authorities have already held against him. Accordingly, no interference is called for.

7. An order of externment is an extraordinary measure that curtails a citizen's fundamental right to unrestricted movement guaranteed under Article 19(1)(d) of the Constitution of India. As settled by the Supreme Court in ***Prem Chand v. Union of India***,² and reiterated in ***Deepak v. State of Maharashtra***,³ the power of externment must be exercised sparingly and only under extraordinary circumstances, requiring clear, present, and credible material to establish that a person's presence is alarming or dangerous.

8. The Coordinate bench of this Court in ***Mahesh Shrivastava @ Jeeva v. State (Govt. of NCT of Delhi)***,⁴ held that minor, non-violent, or regulatory offences, such as those under the Delhi Excise Act or Delhi Public Gambling Act, do not satisfy the statutory threshold mandated under Section 47 of the DP Act. For invoking Section 47, the authority must record subjective satisfaction based on objective evidence showing involvement in offences involving force or violence (or specific IPC chapters), alongside a

¹ 2025:DHC:9148

² (1981) 1 SCC 639

³ 2022 SCC OnLine SC 1999



genuine, objective apprehension that witnesses are unwilling to testify publicly out of fear for their safety. In the absence of any material demonstrating that the petitioner is a “desperate and dangerous” individual or that witnesses are terrified to come forward, passing an externment order on the basis of minor excise or gambling cases constitutes an arbitrary and mechanical exercise of power, infringing upon the petitioner’s rights to personal liberty and fundamental freedoms.

9. The Court has perused the impugned order. The same is extracted as under:

“Now, therefore, in exercise of the power conferred upon me under Section 47 of the Delhi Police Act, 1978, by the order of the Commissioner of Police, Delhi, made under Section 8(II) of the Delhi Police Act, 1978, I, SULEKHA JAGARWAR, Addl. Dy. Commissioner of Police-I, Rohini District, Delhi, hereby order that Rakesh S/o Sh. Rambilash R/o B-68, Bhagya Vihar, Prem Nagar, Delhi, shall remove himself beyond the limits of the NCT of Delhi for a period of 1 year within two days from the date of receipt of this order. However, he is permitted to attend court in the NCT of Delhi on all the dates of hearing of all cases pending against him in the court, with the condition that after attending the date he shall immediately remove himself outside the limits of the NCT of Delhi. This relaxation is only for attending the date of hearing during the court hours and for such reasonable time as may be necessary for coming and going out of the limits of the NCT of Delhi, except with the permission of this court.”

10. The appellate authority in terms of paragraph no. 6 has rendered the following findings:

“It is observed that four cases have been registered against the Appellant involving offences under the Gambling Act & Delhi Excise Act from 2020 to 2024 and illicit liquor was also recovered from the possession of the Appellant in each case, which adversely affects the normal life of the citizens as well as fabric of the society. I find that the Appellant has been convicted in two cases and sentenced to pay fine and remaining two cases are pending trial. It is further observed that the involvement of the Appellant in unlawful activities in a short span of time - he has been found involved in three case FIRs in a single year 2024 - which shows his



increasing propensity to criminal activities and his scant regard for law. Therefore, after considering all aspects of the matter, I am of the opinion that the Respondent has passed a reasoned order and I find no ground to interfere with it. The appeal is accordingly rejected.”

11. A perusal of both the orders would not satisfy the requirements of Section 47 of the DP Act. To meet the requirement of Section 47, there has to be the satisfaction that the movements or act of any person are causing or are calculated to cause alarm danger or harm to the person or property or 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, Chapter XVI, Chapter XVII or Chapter XXII of the Indian Penal Code or under Section 290 or Sections 489A to 489E or in the abetment of any such offence. There is no material either documentary or oral which would substantiate the invocation of Section 47 of the DP Act.

12. Accordingly, the order of externment as well as the appellate authority order both stands set aside.

13. The petition stands disposed of. Pending application also stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 17, 2026 / tr/sa