

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

CRIMINAL WRIT PETITION NO. 4415 OF 2021

Ramesh Kumar Otaramji Borana

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Anand Upadhyay for Petitioner.

Mr. J. P. Yagnik, APP for State/Respondent No.1.

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 2 DECEMBER 2021

P.C. :

. The Petitioner has challenged the Externment order dated 8 September 2021 passed by the Deputy Commissioner of Police, Zone-2, Mumbai.

2. The Petitioner has a statutory remedy of appeal under section 60 of the Maharashtra Police Act, 1951. The learned counsel for the Petitioner contends that, in spite of availability of alternate remedy, the Petitioner can approach this court since the fundamental rights of the Petitioner have been violated. The rule of non interference in the light of availability of alternate remedy is a rule of prudence. This court generally exercises restraint in exercise of its

extraordinary jurisdiction when the statutory remedy is available. Those who are externed under the provisions of the Act, file Appeals and various Appeals are pending and disposed of. As regards contention that Petitioner's fundamental rights are being violated, that is a result of every externment order and if on that ground writ petitions are directly entertained, the remedy of appeal will be rendered meaningless. Therefore, we find no reason to interfere in the writ jurisdiction.

3. It is open to the Petitioner to file an Appeal under section 60 of the Maharashtra Police Act, 1951 which will be considered on its own merits. The contentions of the Petitioners on merits are kept open.

4. The Writ Petition is disposed of accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)