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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3605 OF 2022**

Kaushik Dilip Shah

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

Mr. Niranjan A. Mogre a/w. Mr. Siddhesh S. Borkar for Petitioner.

Ms. J. S. Lohakare, APP for State.

Mr. Kunal Mehta for Respondent Nos. 2 to 4.

**CORAM : A. S. GADKARI &
MILIND N. JADHAV, JJ.**

DATE : 6th October, 2022.

P.C.:

. In the present case, the Petitioner has already exhausted alternate efficacious remedy by way of filing application before the Family Court, Mumbai, for interim access to his children and the same is pending for final adjudication. It is the grievance of the Petitioner that, he has not seen the children since 25.07.2022 and thereafter the children are not tracable.

2. The prayers in the present case though under Article 226 of the Constitution of India is for habeas corpus, however similar are also made before the Family Court. The Hon'ble Supreme Court in the case of *Bombay Metropolitan Region Development Authority, Bombay Vs. Gokak Patel Volkart Ltd. & Ors.*, reported in (1995) 1 SCC 642, has held that, once the Petitioner has availed advantage of alternative

remedy provided by the statute, Writ Petition under Article 227/226 of Constitution should not be entertained.

3. In view of the above, we are not inclined to entertain present Petition and is accordingly disposed off.

4. It is however made clear that, we have not touched the merits of the application filed by the Petitioner before the Family Court and the same will be decided on its own merits.

[MILIND N. JADHAV, J.]

[A. S. GADKARI, J.]

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