



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 722 OF 2025

Svayam alias Soham s/o Anantrao Sawarkar
Vs

State of Maharashtra through its SHO Police Station Hudkeshwar, Nagpur and
others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.V. Bute, counsel for petitioner.

Ms. R.V.Sharma, APP for respondent Nos. 1 to 2/State.

CORAM : ANIL L. PANSARE AND
SIDDHESHWAR S. THOMBRE, JJ
DATED : 09/09/2025.

1. The petitioner has an alternate and efficacious remedy available under Section 60 of the Maharashtra Police Act, 1951, and therefore, he is at liberty to avail said remedy.

2. At this stage, learned counsel for petitioner has relied upon judgments passed by this Court in i] Criminal Writ Petition No. 541 of 2017 decided on 23/08/2017 (Vijay @ Tyson s/o Namdeorao Dongre Vs The State of Maharashtra and others; and ii] Criminal Writ Petition No. 172 of 2013 decided on 12/06/2013 (Smt. Surekha wd/o Paras Waghmare Vs State of Maharashtra), wherein the writ petitions were entertained by this court.

3. The attention of petitioner is invited to the judgment of the Constitution Bench of the Hon'ble

Supreme Court in the case of *Union of India Vs T.N. Verma reported in 1957 SCC Online SC 30*, wherein the Court held that when an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. The court also observed that though it is true that existence of another remedy does not affect the jurisdiction of the Court to issue a writ, but existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs.

4. The Supreme Court in another case *Radha Krishan Industries Vs State of Himachal Pradesh and others reported in 2021 6 SCC 771* summarized the law on alternative remedy and held that when a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution.

In the present case, the order of externment is passed under the provisions of Maharashtra Police Act, 1951, which also prescribes procedure for filing appeal under Section 60. Further it is well settled that entertainability and maintainability of petition are distinct concepts. In a given case, like in the present, a petition may be maintainable but considering the statutory

remedy available to the petitioner, the same is not entertained.

5. Petition is accordingly disposed of with liberty as mentioned above.

(S. S. THOMBRE, J.)

(A. L. PANSARE, J.)