

GAYATRI
RAJENDRA
SHIMPI

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RAJENDRA
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1420 OF 2026

Sunil Pandurang Patil & Ors. ... Petitioners

Versus

The State of Maharashtra ... Respondent

Mr. Mahesh Joshi a/w Ms. Mukta Shanbhag, Advocates for
Petitioners.

Mrs. Rajeshree Newton, APP for the Respondent – State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 12th JUNE, 2026

P.C. :

1. This Writ Petition is circulated pursuant to the praecipe dated 12.06.2026, same is marked with “X” for identification. At the request of Mr. Mahesh Joshi, learned Advocate for the Petitioners and in view of the urgency expressed by him, this Petition is ordered to be listed on today’s ‘Production List’.

2. Heard Mr. Mahesh Joshi, learned Advocate for the Petitioners.

3. By the present Petition, the Petitioners have sought the following substantive reliefs in prayer clauses (a) & (b):-

“a. that this Hon'ble Court be pleased to pass an order and direction in the nature of the appropriate Writ of mandamus, certiorary or any other appropriate Writ under the provisions of section 156 (3) of the Criminal Procedure Code sec. 175 (3) of BNSS, thereby directing the Senior Inspector of Police, Kanjurmarg Police Station, Mumbai to investigate the complaint dated 16/05/2025 of the Complainant and register the crime/F.I.R against the Accused named therein and prosecute the Accused in accordance with law.

b. Any other order that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

4. Mr. Mahesh Joshi, learned Advocate for the Petitioners, submits that the grievance of the Petitioners is that despite filing a complaint before the Kanjurmarg Police Station, Mumbai, the Officer-in-charge of the Kanjurmarg Police Station has refused to register an FIR. He further submits that this Petition is in the nature of an Application under Section 175 of BNSS, 2023 (Section 156(3) of the Cr.PC.). He submits that this Court has jurisdiction to entertain such an Application and to direct the Police to register an FIR based on the complaint filed by the Petitioners.

5. The Hon'ble Supreme Court in the case of ***Sujal Vishwas Attavar & Anr Vs. The State of Maharashtra & Ors.***¹, in paragraph Nos. 7, 8, 9, 10 & 11 has observed as follows :-

“7. Keeping in view the above exposition of law, we find that the extraordinary jurisdiction under Article 226 of the Constitution of India ought not to have been invoked when alternative equally efficacious statutory remedies were available. If a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being conducted, then the remedy does not ordinarily lie in invoking the writ jurisdiction in the first instance, but in seeking recourse to the statutory framework, unless of course the urgency of the circumstances warrant otherwise.

8. The Bharatiya Nagarik Suraksha Sanhita 2023 (erstwhile Criminal Procedure Code, 1973) provides a structured sequential mechanism for initiating criminal prosecution. The statutory framework contemplates that information relating to the commission of a cognizable offence is first placed before the officer-in-charge of the police station and an FIR is registered under Section 173(1) BNSS. In the event of refusal to register the FIR, recourse lies before the jurisdictional Superintendent of Police under Section 173(4) BNSS and, thereafter, before the Magistrate, under Section 175(3) BNSS.

9. In the present case, it is evident from the record that the complainant Company initially approached the Land Record Authority, by way of complaints dated 13.06.2025 and 09.07.2025, with copies thereof being sent to the police authority. However, it did not avail any of the statutory remedies provided under BNSS and instead directly invoked the writ jurisdiction of the High Court, inter alia, seeking directions for registration of FIR. In our considered view, such a recourse, in the first instance, is contrary to the settled principles of law. Particularly in the absence of imminent danger of violation of life or liberty of an individual. Article 226 is not a panacea for all grievances.

10. It is not the case of the complainant Company that it had approached the concerned Superintendent of Police or Magistrate prior to filing the writ petition, nor has any

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material been placed on record to show that such remedies were unavailable or inefficacious. Entertaining a writ petition, in the said circumstances, would in effect, result in the High Court, acting as a forum of first instance thereby bypassing the statutory scheme in its entirety. This is impermissible, save and except in special circumstances as mentioned in Radha Krishan Industries (supra), which are conspicuously absent in the present case.

11. The High Court is not bound to entertain a writ petition merely because a case of alleged inaction or negligence is made out against a statutory authority. Ordinarily, where a statute provides a complete and efficacious remedy, the same must be exhausted before invoking constitutional jurisdiction [See: Sakiri Vasu (supra) and Sudhir Bhaskarrao Tambe (supra)]. In the present facts, the complainant Company, has not exhausted the sequential statutory remedies available under BNSS. There is, therefore, no foundation to invoke the extraordinary jurisdiction of the High Court for the reason that efficacious and efficient alternative remedies exists. Hence, at this stage, we find the instant writ petition to be premature, and, therefore, not fit to be entertained.”

6. Petitioners have not exhausted the sequential statutory remedies available under the BNSS 2023 and have directly approached this Court by way of this Petition. Even otherwise, the Petition does not make out any case of urgency or compelling circumstances to invoke the extraordinary jurisdiction of this Court.

7. Faced with the above-mentioned position of law, which is as clear as a cloudless sky, Mr. Mahesh Joshi, learned Advocate for the Petitioners, on instructions from the Petitioners, seeks leave

to withdraw the present Petition, with liberty to file an Application under Section 175 of BNSS 2023 before the Magistrate. This request is not opposed by Mrs. Rajeshree Newton, learned APP for the State.

8. In view of the request made by Mr. Mahesh Joshi, learned Advocate for the Petitioners, leave is granted to withdraw the present Petition, with liberty to file an Application under Section 175 of the BNSS, 2023, before the Magistrate having jurisdiction.

9. Criminal Writ Petition No. 1420 of 2026 is disposed of as withdrawn.

(ASHWIN D. BHOBE, J.)

