

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 410 OF 2022

Ganesh Vitthal Shinde

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. S.G. Ladda, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 21st JULY, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 112 of 2020 registered with Wadwani Police Station, Dist. Beed for the offences punishable under Sections 302, 201 and 363 of the Indian Penal Code. The applicant is alleged to have committed filicide, and therefore, sought to be prosecuted for the above offences.

2. Heard. Perused First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. was lodged by the applicant himself. It is his case that he had two children, son – Arjun ten years old and daughter – Amruta (Chhakuli) six years old. The daughter was physically and mentally

challenged. She has been extended medical treatment all along. On 11th May, 2020, Chhakuli was playing in the front yard of the house. It was about 07.30 in the morning. In a short while she went missing. A search was, therefore, made for her, but in vain. It is, therefore, alleged in the F.I.R. that someone has kidnapped her.

4. The dead body of Chhakuli was found in a canal near the field of one Dattatray Veer, land situated at Gut No.638, Wadwani. Postmortem report indicates that she died of throttling. The applicant was arrested on suspicion. During the investigation he made a confessional statement before the Judicial Magistrate.

5. Learned counsel for the applicant would submit that except the judicial confession allegedly made by the applicant, there is no other material to connect him in the offence in question. According to him, the confession is required to be proved to be true and voluntary. The same could only be done during trial of the offence. The applicant has a wife and a minor son to look after. He, therefore, urged for grant of application.

6. Learned A.P.P. would, on the other hand, submit that the applicant has made a judicial confession. He, therefore, does not deserve grant of bail.

7. Considered the submissions advanced. Admittedly, except the judicial confession made by the applicant on 25th May, 2020 before the Judicial Magistrate First Class, there is no material to connect him with the offence in question. The applicant was in police custody until 23rd May, 2020. On the same day, an application was moved before the Magistrate informing that the applicant wish to make a confession. Soon after his P.C.R. was over, he was, therefore, produced before the Magistrate on 23rd May itself. He was given two days time for reflection. He was again produced before the Magistrate on 25th May, 2020. He made confessional statement before the Magistrate. It is in his statement that the deceased was physically and mentally challenged. She was little over six years of age. He had extended her all medical treatment. He had to spend over Rs.8 lakhs therefor. He raised bank loan therefor. The doctor had assured that Chhakuli would be alright after five years of treatment. There was, however no change in her physical and mental condition. He, therefore, pressed her neck and drop her dead body in the river.

8. It is reiterated that except confessional statement, there is no material to connect the applicant with the offence in question. The law is well settled that the confessional statement can be relied on if it is proved to be true and voluntarily made. Admittedly, the applicant was produced before the Magistrate on the day on which his P.C.R. was over. True, the applicant

was given forty eight hours of time for reflection. The Police Constable, attached with the police station with which the offence in question has been registered, produced the applicant before the concerned Magistrate for recording his confessional statement. As such, whether the confessional statement made by the applicant is true and voluntarily could only be ascertained/found during trial of the case. The applicant has been behind the bars for over two years. He is a professional rickshaw driver. He has a wife and one minor son to look after.

9. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 112 of 2020 registered with Wadwani Police Station, Dist. Beed for the offences punishable under Sections 302, 201 and 363 of the Indian Penal Code, on executing PR. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)