

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

Criminal Application (BA) No. 1098 of 2022

Lachami S/o Bhima Badawat

Versus

The State of Maharashtra, through Police Inspector, Police Station Virur,
Tah. Korpana & Dist. Chandrapur

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

Court's or Judge's Order

Shri R.M.Tahaliyani, Advocate for the applicant.

Shri Sagar Ashirgade, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 26th SEPTEMBER, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 41 of 2022 registered with Police Station Virur, Dist. Chandrapur for the offence punishable under Sections 302, 201, 120-B of Indian Penal Code.

2. In this case the applicant is the complainant and also one of the accused and the allegations is that the applicant with the help of co-accused has committed murder of her daughter. The only evidence on which the learned Additional Public Prosecutor is harping upon is the memorandum of statement recorded under

Section 27 of Indian Evidence Act, whereby a sim card was recovered from co-accused Sharda.

3. The Hon'ble Supreme Court of India in the case of Venkatesh @ Chandra and another Vs. State of Karnataka¹. The Hon'ble Supreme Court has observed thus :

23. We must observe that we have repeatedly found a tendency on part of the Prosecuting Agency in getting the entire statement recorded rather than only that part of the statement which leads to the discovery of facts. In the process, a confession of an accused which is otherwise hit by the principles of Evidence Act finds its place on record. Such kind of statements may have a direct tendency to influence and prejudice the mind of the Court. This practice must immediately be stopped. In the present case, the Trial Court not only extracted the entire statements but also relied upon them.”

4. In view of the observations made by the Hon'ble Supreme Court of India, and in absence of any incriminating material against the applicant to connect her with the alleged offence, I am of the opinion that as the chargesheet has been filed and the applicant being lady, she is entitled for grant of bail. Accordingly, I pass the following order.

i) The Criminal Application is allowed.

1 2022 SCC Online SC 765

ii) It is directed that applicant shall be released on bail in Crime No.41 of 2022 registered with Police Station Virur, Dist. Chandrapur for the offence punishable under Sections 302, 201, 120-B of Indian Penal Code, on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety in the like amount;

iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.

[ANIL S. KILOR, J.]

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