

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 6068 OF 2025**

Smita Mayur Kapadia .. Petitioner
Versus
State of Maharashtra & Ors .. Respondents

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Mr. Girish Utangale i/b Ms.Utangale & Co. for the petitioner.
Ms.Heena Mistry for respondent nos.5,6, 7 and 8.
Ms.S. D. Shinde, APP for the State.
PSI Namdev Bembde from Juhu Police Station present.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ
DATED : 24th NOVEMBER, 2025**

P.C:-

1 Petition is filed by the daughter of Smt.Madhuri @ Manjula Chimanlal Shah, aged 91 years, who is alleged to be illegally detained by respondent nos.6 to 8. It is the claim of the petitioner that the petitioner was taking care of the mother, but when her brother suffered a brain stroke, she visited him and she was confined and detained, restricting her movements as well as establishing her communication with the petitioner and other family members.

2 Several efforts were taken by the petitioner to free her from the confinement which included filing of a police complaint. However, since she allegedly remains in illegal custody, petition is filed seeking issuance of writ of habeas

corpus for directing the respondents to release her and hand over her custody to the petitioner.

3 Heard respective counsel appearing for the parties.

Ms.Shinde, learned APP submit that pursuant to the filing of the petition, the Investigating Officer, in the wake of the complaint filed by the petitioner had approached Smt. Madhuriben and recorded her statement on 23/9/2025.

The statement of the petitioner is also recorded along with the statement of one Sunita Chavan, the care taker of Smt.Madhuriben.

On perusal of the statements which appears before us, we are satisfied that Smt.Madhuriben Shah whose age is recorded as 95 years is staying with the son on her own will, and she categorically state that for a while, she had gone to visit her daughter out of her own volition, but on 20/9/2025, when she came to meet her son, she realized that she is comfortable with him and she chose to reside there as the house belongs to her. She categorically stated that everyone in the house present, care for her and she is staying in the house of her son, whom she considers to be her own home, 'she is not desirous to shift to her daughter's place' and categorically expressed that she want to continue her stay with her son in his house, and there was no quibble with the daughter which constrained her to leave the house.

4 In the wake of her categorical statement of Smt. Madhuriben that she want to lead her life in the house of her son, which she consider to be hers, and with the determination with which she has made the statement, we form an opinion that she is not forced to stay there, and with her free will she is

staying there, and is at comfort in the said house. However, that do not mean that the petitioner who is her own daughter is not allowed to meet her.

5 A consensus is arrived between the parties in the wake of presence of respondent no.7 in person, and it is agreed that the petitioner shall be permitted to visit the house of Deepak Shah, her own brother, where the petitioner is residing willingly on the address mentioned in the title clause of the petition, between 3.00 pm to 6.00 p.m, and is entitled to stay there till 6.00 p.m.

We also clarify that the respondent shall ensure that some private movements are allowed between the daughter and the mother and they shall be left to their solitude to the exclusion of other members of the family.

With this direction, Writ Petition stand disposed of.

(SHYAM C. CHANDAK,J)

(BHARATI DANGRE, J.)