

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.249/2015

**(Anwar @ annu Tayar Pathan ..vs.. The State of Maharashtra, through PSO Kardha,
Bhandara Rural)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. H. S. Rahangadale, Advocate for applicant.
Mr. P. V. Bhoyar, A.P.P. for non applicant-State.

CORAM : A.B. CHAUDHARI, J.

DATE : JUNE 19, 2015.

Heard learned counsel for rival parties.
Seen the chargesheet as well as reply filed by the
prosecution. It is the case of the prosecution that the
deceased was having love affair with the wife of
applicant and was talking with her on mobile phone.
The wife of accused-Annu went along with the
deceased on motorcycle two months before the
incident in question and, therefore, the applicant
Anwar @ Annu had enmity with the deceased.

Here, it is necessary to consider the
contents of paragraph 2 of the reply filed by the
prosecution which reads thus:

“2. *It is the case of the prosecution that
on 30.4.2014 one Shakebuddin Hifazuddin
Khan lodged report to the non applicant Police*

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Station thereby stated that from 07.00 p.m. of 28.4.2014, his brother/deceased left the house and not returned back to the house, his mobile phone was switched off. Accordingly, the complainant enquired from 10.00 p.m. to 02.00 a.m. however, his brother was not found. Therefore, on 29.4.2014 at about 01.00 p.m. he lodged the report with non applicant Police Station. Thereafter, the search of the brother of the complainant was going on and at that time there was suspicion against one Rakhi Sirsam therefore, enquired her about missing of his brother Vikar Ali. At that time she informed that the accused Asif Uncle, Annu @ Anvar, Sabir Khan and Vishnu Madavi these 4 accused persons took Vikar Ali in the forest area of Davadipar and killed him by deadly weapons. The complainant, Rakhi and Police Patil rushed to the Devadipar and in the said forest dead body of Vikar Ali was found having several injuries on his person i.e. face, neck and other part of the body.”

Perusal of the above reply clearly shows that the dead body of the deceased was found in forest with several injuries on his person. There is no evidence much less even indirect evidence against the

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applicant to hold him responsible except for the fact that wife of applicant is said to have had an affair with the deceased and nothing more.

I think, there is no point in keeping the applicant in jail for want of any evidence against him. That being so, I pass the following order.

ORDER

(i) Criminal Application (BA) No.249/2015 is allowed.

(ii) Applicant-Anwar @ Annu Tayar Pathan shall be released on bail on furnishing PR Bond in the sum of Rs. 20,000/- with one surety in the like amount.

(iii) The applicant shall attend Police Station, Kardha, Bhandara Rural on last Sunday of every month between 11.00 a.m. to 04.00 p.m. and shall cooperate with the Investigating Officer.

(iv) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses in any manner.

JUDGE