

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2249 OF 2016

Ibrahim @ Bablu Mazhar Ali Yavlawala Applicant/Accused

Versus

State of Maharashtra Respondent
through Mumbra Police Station.

Ms. Ashwini Gaikwad I/by. Mr. A.Q.Usmani for Applicant/Accused.
Mrs. P.P.Shinde, APP for Respondent/State.
Mr. S.S.Sayyad, API, Mumbra Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: 13TH JANUARY, 2017.

P.C.

. The applicant herein is arrested on 30th October, 2015 in Crime No. I-242 of 2015 registered at Mumbra Police Station. The investigation is completed and charge sheet is filed on 26th January, 2016 against the applicant/accused for the offence punishable under Section 302 of Indian penal Code.

2. It is the case of the prosecution that, on 3rd March, 2015 Fakruddin Shamshuddin Palavkar lodged a report at the Police Station alleging therein that, on 2nd March, 2015 his sister-in-law Saeeda Khalil Palavkar informed him that his brother Fayyaz has

been assaulted by some person and is in serious condition. He is admitted in Chhatrapati Shivaji Hospital, Kalwa. Crime No. I-242 of 2015 was initially registered against unknown person for the offence punishable under Section 307 of Indian Penal Code. It appears from the record that, brother of Fayyaz namely, Khalil had been to Kalwa Hospital to meet him. Upon enquiry, the injured has disclosed to his brother that he has been assaulted by Bablu Bori. Fayyaz succumbed to the injuries on 9th March 2015. The statement of Khalil was recorded on 8th March, 2015.

3. In the course of investigation, it was revealed that the applicant was referred as Bablu Bori. The statement of the sister-in-law of the informant – Fakruddin Palavkar is also recorded by the Investigating agency. She has disclosed to the police that the deceased Fayyaz and the present applicant were friends. They had a quarrel over the Samsung Cell Phone handset. On 1st March, 2015 the applicant herein had called upon his mother and informed that the deceased Fayyaz has stolen the Cell Phone handset. She has requested not to quarrel with Fayyaz. Since then the applicant had not returned home.

4. There is oral dying declaration given by the deceased to his brother. The sister and mother of the applicant have also disclosed that the applicant had not returned home after 1st March, 2015 and ultimately he was arrested on 30th October, 2015. The learned Counsel for the applicant submits that the full name of the

applicant was not mentioned. This could be a case of mistaken identity. The name of the applicant as mentioned in cause title is Ibrahim @ Bablu Mazhar Ali Yavlawala. It is pertinent to note that the applicant has not raised any such grievance before the learned Magistrate, or at that time, when the case was committed to the Court of Sessions and registered as Sessions Case No. 63 of 2016. The compilation of the charge sheet would indicate that there is more than sufficient incriminating material showing the involvement of the applicant in the present case. Hence, the applicant does not deserve to be enlarged on bail.

5. Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)