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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.126 OF 2016**

Dhanraj Harishchandra Bhosale

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.D.G.Khamkar, for the Applicant

Mr.D.P.Adsule, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 17th MARCH, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 142 of 2015, registered with the Daund Police Station, Pune for the alleged offences punishable under Section 302 of the Indian Penal Code.
3. The complainant is the wife of the applicant and also the mother of the deceased – Ragini, who was aged nine months at the relevant

time. According to the complainant – Radhika, she was earlier married to one Nitesh Makmakya Bhosale and had given birth to a baby girl. Thereafter, she left her first husband, due to household quarrels and performed a second marriage with the present applicant. It is alleged that on 18th May, 2015 at about 10.00 p.m., when the applicant's parents were sleeping in their room and the applicant, complainant and Ragini, were sleeping in their room, at around 4.00 a.m. in the morning, Ragini woke up and started crying. When the applicant asked the complainant, as to why Ragini was crying, it is alleged that the complainant replied, let her cry, pursuant to which the applicant kicked Ragini, a 9 month old child, in her abdomen. Thereafter, the complainant informed the said fact to the applicant's father, who took Ragini to the hospital where she was declared dead.

4. Learned Counsel for the Applicant submitted that the applicant is only 21 years of age and is a student. He submitted that the complainant had submitted before the Sessions Court, that Ragini died due to a fall from the cot. He submitted that the alleged act does not constitute an offence under Section 302 but would be a lesser offence.

5. Perused the papers. The applicant gave a kick blow on Ragini's stomach. Ragini was only nine months old. As a result of the kick blow, Ragini died. The postmortem report shows the cause of death as under :-

“Death due to haemorrhagic shock due to injury to internal vital organ liver (liver rupture).”

6. It appears, that subsequently, the complainant has filed an affidavit stating therein, that the deceased fell from a cot and sustained an injury.

7. Considering the manner, in which the applicant has assaulted the deceased, who was only nine months at the relevant time, this is not a fit case to enlarge the applicant on bail.

8. Hence, the Application for bail is rejected and disposed of as such.

9. However, considering the age of the applicant, the trial of the applicant is expedited. The learned Judge is requested to conclude the trial,

as expeditiously as possible, and preferably within one year from the date of receipt of this order.

10. Needless to observe, that the trial court shall decide the case on its own merits, uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.