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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.658 OF 2018

Sudhakar Jayram Nadar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Milan Desai, i/b Mr.T.R.Patel, for the Applicant.

Mr.A.A.Palkar, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.386 of 2016 registered with the MHB Colony Police Station, Mumbai, for the alleged offences punishable under Sections 302, 504 of the Indian Penal Code.

3. Perused the charge-sheet. Admittedly, the applicant is the brother-in-law of deceased-Annaparvati Suresh Nadar. According to the prosecution, there was a property dispute between the family members, pursuant to which, the alleged incident took place on 19th November, 2016, at about 10.00 a.m. It is alleged by the prosecution, that the complainant's wife- Annaparvati was washing clothes, when the applicant came from behind and assaulted her on her head, pursuant to which, Annaparvati fell on the ground. There are several witnesses, who have witnessed the said incident of assault. It is alleged that pursuant to the assault on Annaparvati, people gathered and one of them, pushed the applicant, pursuant to which, the applicant fell down and thereafter fled from the spot. Annaparvati was taken to the Corporation Hospital and thereafter to Shatabdi Hospital, where she was declared dead. There are number of eye-witnesses to the said incident of assault by the applicant on deceased-Annaparvati. The cause of death is stated to be 'head injury'. The applicant assaulted the deceased, when she was washing clothes and as such, she was caught completely unaware. Although, learned counsel for the applicant submitted that there are discrepancies, with regard to the time mentioned in the spot panchanama, FIR, inquest etc., the same is a matter, which will be

considered by the trial Court, during trial. It is also contended by the learned counsel for the applicant that it is a case of single blow and at the highest, the applicant would be liable for a lesser offence and not under Section 302 of the Indian Penal Code. *Prima facie*, it appears that the applicant came armed with a weapon and assaulted the deceased from behind, and as such was a pre-meditated act. There are several eye-witnesses, both family members and neighbours, who have witnessed the incident of assault. If the applicant is enlarged on bail, the possibility of the applicant tampering with the witnesses and influencing the witnesses, also cannot be ruled out.

4. Considering the *prima facie* material as against the applicant, this is not a fit case to enlarge the applicant on bail.

5. Accordingly, the application for bail is rejected and disposed of as such.

6. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall

decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)