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

CRIMINAL BAIL APPLICATION NO.529 OF 2019

Anis Wahid Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.S.V.Marwadi, a/w Mr.N.M.Nadar, for the Applicant.

Mr.V.V.Gangurde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th JUNE, 2019

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.NoI-330 of 2016 registered with the Mumbra Police Station, Thane, for the alleged offences punishable under Sections 302, 506(2), 504 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that taking the prosecution case as it stands, no offence under Section 302 of the Indian

Penal Code is made out.

4. Learned APP opposed the application.

5. Perused the papers. According to the prosecution, the incident took place on 8th July, 2016 at about 7.00 p.m. It is alleged that the applicant along with Arif and Salim were sitting and chatting with Abdul Karim Azim Shah, when Rafique (deceased) came on the motorcycle. It is alleged that the applicant called out to Rafique (deceased) and some quarrel took place between them; and that the Applicant started abusing Rafique and started assaulting him with fist and kick blows. It is further alleged that Arif and Salim held Rafique and that the applicant assaulted Rafique with a big knife on his chest. A perusal of Column No.17 of the postmortem report shows, that the deceased received a stab injury over his chest 'at sternal region, mid-line placed 2.5 cm below sternal notch obliquely placed of size 5 cm X 2.5 cm X cavity deep with gaping wound present, both angles acute, margins clean cut.' The cause of death is stated to be 'Shock and Haemorrhage due to stab injury over chest causing injuries to major vessels and vital organs.' There is recovery of a knife, at the instance of

the applicant. It appears that there is some previous enmity between the applicant and the deceased.

6. Considering the material on record, this is not a fit case to enlarge the applicant on bail. The trial of the applicant is however expedited.

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

8. 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.