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

CRIMINAL BAIL APPLICATION NO.1271 OF 2019

Suresh Chavan	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr.Irfan A. Shaikh, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th 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.No.I- 366 of 2018 registered with the Kopar Khairane Police Station, Thane, for the alleged offences punishable under Sections 302 and 323 of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that taking the prosecution case as it stands, no offence as alleged under Section 302 of

the Indian Penal Code is disclosed, *qua* the applicant.

4. Perused the papers. According to the complainant – Ratna Rathod, after the death of her husband, she was staying with Virendra (deceased) and that her maternal sister – Kamla Chavan, was also living close by. The applicant is the son of Kamla Chavan. According to the prosecution, the applicant would visit the house of the complainant regularly and that the applicant and Virendra (deceased) would sit together and consume liquor. It is alleged by the complainant, that on 14th November, 2018, the applicant came to her house and offered liquor to Virendra (deceased), however, since Virendra had already consumed the liquor, he refused to consume more liquor, pursuant to which, there was argument between the applicant and Virendra (deceased). The complainant has alleged that on 15th November, 2018, at about 3.00 p.m., when she, Virendra (deceased), her sister – Sona Jadhav, her daughter-in-law – Savita were sitting in the house, the applicant came there and questioned why they had informed the incident which took place on the previous night, to his family. According to the complainant, the applicant slapped her and threatened to kill Virendra (deceased) and kicked him on his chest. The

complainant has alleged that she pacified the applicant. She has further alleged that after the applicant left, froth started coming out from Virendra (deceased) mouth, pursuant to which, they applied a hot bag on Virendra's chest. As Virendra (deceased) was not speaking or moving they informed the police and thereafter, Virendra was taken to the hospital, where he was declared dead on admission. Admittedly, no weapon has been used by the applicant in the assault. The applicant is alleged to have kicked Virendra (deceased) once or twice on his chest. *Prima facie*, it appears that there was no pre-meditation to commit the alleged offence. The applicant is in custody since November, 2018. Investigation is complete and charge-sheet is filed. Whether or not the offence would be one under Section 302 of Indian Penal Code or a lesser offence, is a matter which will be decided by the trial Court.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

- ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial;
- vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the conditions, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

REVATI MOHITE DERE, J.