

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1702 OF 2016

Sideeque Salim Shaikh	...	Applicant
Vs.		(Orig. Accused No.2)
The State of Maharashtra	...	Respondent

Mr.Ujwal R.Agandsurve,Advocate for the applicant.
Mr. Vinod lChate, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 30th September, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.419 of 2016 registered at Sadar Bazar Police Station, Solapur, for the offences punishable under Sections 353, 504, 506 read with Section 34 of the IPC.

2. It is the case of the prosecution that Maharaja Lodge, situated at Railway Lines, Solapur, was in fact owned by one Dinesh Jadhav. The Lodge was being run by one Rafique Shaikh and Iqbal Shaikh, who happens to be the uncle of the present applicant. That on 31.8.2016, on the basis of a secret information, the hotel premises were raided as there was an

allegation that there are illegal activities going on in the hotel under the provisions of the Immoral Traffic (Prevention) Act, 1956. Upon enquiry, it was learnt that the hotel is being run by Iqbal Shaikh, who was not present in the hotel. It was learnt that Iqbal Shaikh was residing at Lashkar Imamwada. The police had been to the said place. At that time, one Toufiq Shaikh had posed himself as Iqbal Shaikh, subsequently disclosed that in fact, he is the nephew of Iqbal Shaikh and only wishes to ascertain the reason why the police were looking for Iqbal Shaikh. Thereafter, the wife of Iqbal Shaikh had called upon her husband. That Iqbal Shaikh and Toufiq Shaikh were humbly requested by the police to sit in the Police Van. They were sitting in the Police Van and at that time, it is alleged that the present applicant and one another person had tried to take away Iqbal Shaikh from the custody of the police obstructed the police officers from discharging their official duties. Hence the offence.

3. The learned counsel for the applicant submits that the first information report was lodged on 1.9.2016, whereas on 2.9.2016, the present applicant had filed an application before the Commissioner of Police, Solapur, alleging therein that on 31.8.2016, he had heard hue and cry of his brother and therefore wanted to find the reason why his brother

was being assaulted by the police. When he requested the police to restrain themselves from assaulting his brother, they had also assaulted the applicant. It is alleged that the police did not stop at that, but entered his house and had damaged the household articles. It is also alleged that the police had threatened him that in the eventuality that he tried to become smart, he would be implicated in a false case and would be externed from Solapur. That he was being abused by the police. That he had sustained blunt traumatic injuries. The photographs of the said injuries are placed on record.

4. Taking into consideration the nature of allegations and the offence alleged against the applicant and the submissions advanced across the bar, the application deserves to be allowed as the custodial interrogation in the present case would not be imperative.

5. It is made clear that the observations made hereinabove are restricted to an application under Section 438 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the police station on 3rd and 5th October, 2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of his capacity.

Application is allowed in the above terms and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)