

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

CRIMINAL BAIL APPLICATION NO. 25 OF 2017

Ashfaq Ahmed Khan @ Ashfaq
Mustaq Shaikh. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Aniket Vagal, advocate for Applicant.

Ms. J.S. Lohokare, APP for State.

Mr. Bhatt, API, Shivaji Nagar Police Station.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 27, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 1/9/2016 in
Crime No. 164 of 2016 registered at Shivaji Nagar Police Station for

offences punishable under section 307, 323, 504, 506(2) read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 22/4/2016 Irfan Noorhasan Shaikh lodged a report at the police station alleging therein that on 21st April, 2016 at about 10 p.m. he was called out of his house by Hamid. Alongwith him Imran, Gufran and present applicant were present. They threatened him over some quarrel in the past. It is alleged that initially Hamid and Gufran had assaulted first informant with fist and kick blows. The present applicant and Imran had attempted to assault him with sword on his head. He obstructed the blow and hence, had sustained injuries on his palm. He had threatened him of dire consequences in the eventuality that he lodged the report with the police.

4 Investigation is completed and charge-sheet is filed. The first informant was taken to Shatabdi Hospital on the day of the incident i.e. 21/4/2016. The injury certificate shows that the victim sustained

one contused lacerated wound on his right palm, one contused lacerated wound on left forearm. The nature of the injuries has not been specified.

5 There are no criminal antecedents. The applicant has been in custody for over 5 months. The investigation is completed and charge-sheet is filed. Hence, the applicant deserves to be enlarged on bail.

6 Taking into consideration the nature of injuries sustained by the victim and the fact that the applicant has no criminal antecedents, the applicant deserves to be enlarged on bail.

7 However, the observations are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial Court shall not be influenced by the same at the time of trial.

8 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall report to Shivaji Nagar Police Station on 1st Sunday of each month till framing of charge.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)