

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

CRIMINAL BAIL APPLICATION NO.2135 OF 2018

Imran Shahid Umar Khan	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.Arun Rajput i/b. Ms.Anjali Patil, Advocate for the Applicant.

Mr.M.G. Patil, APP for the Respondent – State.

Mr.S.A. Sonawane, PSI, Wadala TT Police Station, Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 4, 2018.

P.C. :

This is an application for bail. Applicant is arrested on 6th September, 2016. FIR was registered on the 5th September, 2016, with Wadala T.T. Police Station, Mumbai, under Sections 307, 452, 143, 145, 147, 149, 504, 506, 427 and 188 of Indian Penal Code ("IPC", for short) being C.R. No.380 of 2016.

2 The case of the prosecution is that the complainant conducts hotel at Shantinagar, Wadala, Mumbai since 2000. He opens his hotel at 6:00 a.m. and closes at 11:30 p.m. On 4th

September, 2016 at about 11:30 p.m., the person, namely, Sonu alias Nasaruddin Khan, Imran Sayyed came alongwith four unknown persons and ordered food from Salman, who was working at the hotel. As it was closing time, Salman told them that he is not in a position to serve food. However, the accused insisted that they should be served with the food and threatened him. Complainant tried to intervene, however, he was abused. The said person then went out and again returned with weapons like swords and they started assaulting the inmates of the hotel. Sonu assaulted Salman on his neck with sword and Imran assaulted Alam Khan on his head and hands. The four unknown persons also assaulted the waiters and customers with kicks and fist blows. They also threatened the persons present in the hotel and caused damage to the articles. Constable who was passing from the hotel had entered in the premises and tried to nab accused Sonu, who pushed him and ran away from the spot. However, the other accused Imran was caught by constable and other persons in the hotel. FIR was registered. The investigation has been completed and charge - sheet has been filed.

3 Applicant has not been named in the FIR. Another person, namely, Imran Sayyed and Sonu @ Nasaruddin Khan are

named as accused in the complaint they were attributed overtact of assaulting complainant. The complaint also refers to other unknown persons who had allegedly assaulted by fist and kick blows. Specific role of assaulting by sword has been attributed to another accused. Applicant has not been identified as a person who was accompanying the other accused. Prosecution relies on a statement of witness Mohd. Sharif Khan, recorded on 6th September, 2016, wherein he has stated that the applicant was accompanying the co-accused Sonu. It is pertinent to note that the name of the other accused who was accompanying Sonu and allegedly played an active role in assaulting the inmates of the hotel was named as Imran Sayyed and not the applicant. In any case, this witness has not attributed any specific overtact to the applicant in his statement. The other witnesses has referred to unknown persons having accompanied the other accused. There is no identification parade, identifying the applicant as one of the person who was accompanying the assailants. Learned APP submitted that accused had assaulted the complainant and others. As stated above overtact is attributed to other accused. The statements of witnesses except one witness refers to assailants who are identified and others were referred as unknown persons except statement of one witness. There is no

evidence to show involvement of applicant. Apart from that, considering the fact that the applicant is in custody from 5th September, 2016, case for grant of bail is made out.

4 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.2135 of 2018, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.380 of 2016, registered with Wadala T.T. Police Station, Mumbai, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (ii) Applicant shall report to Wadala T.T. Police Station, Mumbai, on first Friday of every month between 11:00 a.m. to 01:00 p.m., till further order;
- (iii) Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses;

(iv) Bail Application No.2135 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)