

## ***Re Kumar* [2017] VSC 742 (6 December 2017) – Victorian Supreme Court**

\*Note: this case was decided under now superseded legislation however the case contains relevant statements of principle.

‘Bail’ – ‘Bail conditions not sufficient’ – ‘Bail refused’ – ‘Immigration detention’ – ‘Past breaches of protection orders’ – ‘Protection orders’ – ‘Show cause’

Charges: Contravention of a family violence safety notice intending to cause harm or fear for safety x 1; Destroying or damaging property x 1; Aggravated burglary x 1; Attempted murder x 1; Intentionally causing serious injury x 1; and Recklessly causing serious injury x 1.

Case type: Bail application.

Facts: The applicant attended the house of his former partner and her new partner (the victim), and forced his way in by breaking the window ([7]-[8]). The applicant stabbed the victim’s head and hands with a piece of broken glass, leaving him with permanent injuries ([9]).

Issues: The applicant was required to ‘show cause why his detention was not justified’, under various sub-sections of s 4(4) of the *Bail Act 1977* (Vic). For example, the appellant was charged with contravening a family safety notice in which he was alleged to have used violence and, in the previous 10 years, had been found guilty of the same charge (s 4(4)(ba)(i)) ([12]).

Decision and Reasoning: Bail was refused.

The applicant had argued that because he has been given notice that he is an unlawful non-citizen, he would be put straight into immigration detention and therefore would not pose a risk of committing another offence ([14]).

Priest JA held that there was an unacceptable risk that the applicant would commit further offences against his former partners. Most importantly, the applicant had a history of breaching family violence orders ([20]). Therefore, the risk of the applicant committing further violence could not be mitigated by strict bail conditions ([21]). Furthermore, there was no guarantee that the applicant would be put straight into immigration detention ([17], [20]).