

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

CRIMINAL BAIL APPLICATION NO. 2923 OF 2019

Subhash Gopal Malusare

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sanjiv Kadam a/w. Mr. Vaibhav Gaikwad i/b. Mr. Raviraj Rajaram
Paramane, Advocate for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the Respondent-State.

Mr. Ganpat Babu Ganeshkar, P.S.I. Narpoli Police Station present.

CORAM : S. K. SHINDE, J.

DATE : 04th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the applicant and learned A.P.P. for
the Respondent – State.

2 Applicant is seeking release on bail in Crime No. 438 of 2019
registered with the Narpoli Police Station, for the alleged offences
punishable under Sections 376, 506 read with Section 34 of the Indian
Penal Code.

3 On 24th July 2019 victim alleged six months before, applicant
(her employer) sexually assaulted her.

4 I have perused the complaint. Complainant has also alleged

sexual assault by another employee of the company. She alleged that a month before, driver of the applicant, had committed sexual assault on her, in lodge.

5 In this case the charge-sheet has been filed. Evidence shows that the complainant's service was terminated on 16th July 2019.

6 Mr. Kadam learned counsel for the applicant submits complaint, acted in retaliation for terminating her service.

7 The evidence does not disclose or even suggest, that after alleged sexual assault, in the month of January 2019, the victim had disclosed it even to her husband. The material on record not even suggest any acceptable reason which prevented the complainant to disclose the incident to her husband. However, it is only after termination of service complaint has been filed which *prima facie* appears to be actuated with malice. For these reasons applicant is directed to release on the bail on the following conditions :

ORDER

- (i) The applicant is directed to be enlarged on bail on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of trial;
- (iii) The applicant shall inform particulars of his residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted.
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;
- (vii) If there are two consecutive defaults either in attending the Police Station, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is allowed in the aforesaid terms and is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(S. K. SHINDE, J.)