# IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

**BEFORE**

**HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL**

**ON THE 2nd OF FEBRUARY, 2024**

**MISC. CRIMINAL CASE No. 4099 of 2024**

**BETWEEN:-**

**ASHOK KUMAR MALLAH S/O BABULAL MALLAH, AGED ABOUT 24 YEARS, OCCUPATION: LABOUR R/O VILLAGE JUGPURA P.S. BELKHEDA DISTRICT JABALPUR (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI NARENDRA TIWARI - ADVOCATE)***

**AND**

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION BELKHEDA DISTRICT JABALPUR (MADHYA PRADESH)**

2. **PROSECUTRIX D/O NOT MENTION NOT MENTION (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SMT. NUPUR DHAMIJA - PANEL LAWYER)***

---

*This application coming on for admission this day, the court passed the following:*

**ORDER**

This second bail application under Section 439 of the Code of Criminal Procedure has been filed by the applicant for grant of regular bail in relation to F I R No. 398/2022 dated 06.11.2022, registered at Police Station Belkheda District Jabalpur (M.P.) for commission of offence under Sections 363, 366, 376(2)(n), 506,120-B of IPC and Section 5(L) and 6 of POCSO Act. Applicant is in detention since 31.12.2024.

Signature Not Verified
Signed by: MANOJ KUMAR LALWANI
Signing time: 03-02-2024 12:15:43

**2.** Applicant's first bail application was dismissed as withdrawn and not pressed with liberty to renew the prayer for grant of bail after recording of prosecutrix's evidence before the trial court vide order dated 15.06.2023 passed in M.Cr.C. No.18723/2023.

**3.** As per the prosecution story, on 06.11.2022, prosecutrix 's father lodged an FIR about missing of his 13 years old daughter since intervening night of 4/5-11-2022. F.I.R was registered. She was recovered almost after one month and ten days. After investigation, charge-sheet has been filed.

**4.** Learned counsel for the applicant has submitted that applicant has not committed any offence. He is innocent. He has been falsely implicated. It is submitted that prosecutrix has already been examined before the trial court. She has not supported the prosecution story. FSL report is negative. Therefore, it is prayed that applicant may be released on bail pending the trial.

**5.** On the other hand, learned counsel for the respondent/State has opposed grant of bail but has fairly admitted that FSL report is negative and in her statement recorded under section 164 of Cr.P.C too on earlier occasion she had not supported the prosecution story.

**6.** In this case, evidence of the prosecutrix has already been recorded before the trial court. She has not supported the prosecuton story. FSL report is also negative. No sample has been sent for DNA examination. Therefore, having taken into consideration all the facts and circumstances of the case including the detention period of the applicant, I am inclined to release the applicant on bail. Consequently, this bail application under Section 439 of the Code of Criminal Procedure for grant of bail filed on behalf of applicant, stands **allowed.**

**7.** It is directed that **applicant - Ashok Kumar Mallah** be released on

Signature Not Verified
Signed by: MANOJ KUMAR LALWANI
Signing time: 05-02-2024 12:15:43

bail on his furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court, for his regular appearance before the trial Court during trial with a condition that he shall remain present before the concerned Court on all the dates fixed by it during trial. He shall abide by all the conditions enumerated under Section 437(3) of Cr.P.C.

**8.** This order shall be effective till the end of the trial. However, in case o f bail jump and breach of any of the conditions of bail, it shall become ineffective.

Certified copy as per rules.

**(DINESH KUMAR PALIWAL)**
**JUDGE**

MKL

Signature Not Verified
Signed by: MANOJ KUMAR LALWANI
Signing time: 03-02-2024 12:15:43