

**The High Court Of Madhya Pradesh**

**MCRC-45985-2018**

*(BABUA@AKHTAR AHMAD & ORS. Vs THE STATE OF MADHYA PRADESH)*

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**Jabalpur, dated: 16.11.2018**

Shri Abhishek Arjaria, learned counsel for the applicants.

Shri Vivek Lakhera, learned Government Advocate for the respondent State.

Heard on this first application for bail under section **439** of the Code of Criminal Procedure filed on behalf of applicants in Crime No.359/2018 registered by Police Station Ajaygarh, District Panna for the offence under Sections 379 of the Indian Penal Code.

The case of the prosecution is that, on 22.10.2018 at about 10:30 pm at Barouli Sand Mine under the jurisdiction of Police Station Ajaygarh, District Panna, on an information of the informant, the Police party have intercepted a truck bearing No.UP-90-T-7208, loaded with sand. During the course of investigation, it was found that the said truck belongs to one Habiburehman. The applicant and co-accused persons also found present near the truck in their motorcycles, cars, etc. The applicants have been arrested on the spot and their vehicles have also been seized.

Learned counsel for the applicants have submitted that the applicants have not committed any offence and have falsely been implicated in this case. It is also submitted that no case under Section 379 of IPC has been made out against the applicants. In fact separate proceedings under the Madhya Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2006 has to be initiated in such a case. It is further submitted that the applicants are permanent residents of the address described in the

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application. They are ready to furnish adequate surety and shall abide by all the directions and conditions which may be imposed upon them. It is also submitted that the applicants have been in custody since 22.10.2018; therefore, it has been prayed that the applicants be released on bail.

Learned Government Advocate for the respondent/ State on the other hand has opposed the bail application.

On perusal of the case diary, it is not clear that the applicants are the persons who were indulged in illegal mining and loading of sand in truck.

However, keeping in view the facts and circumstances of the case in their entirety, particularly the fact as pointed out by the learned counsel for the applicants, allegation made against the applicants and the period of detention of the applicants, in the opinion of this Court, the applicants deserve to be released on bail.

Consequently, this first application for bail under Section 439 of the Code of Criminal Procedure filed on behalf of applicants-**Babua @ Akhtar Ahmad, Safik Uddin and Abbu Bakash**, stands allowed.

It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of **Rs.30,000/-** with one solvent surety **each** in the like amount to the satisfaction of the trial Court for their appearance before that Court on all dates fixed in the case and for complying with the conditions enumerated under Section 437 (3) of the Code of Criminal Procedure.

Certified copy today.

**(Mohd. Fahim Anwar)**  
**Judge**