

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 8th OF MAY, 2024

MISC. CRIMINAL CASE No. 18739 of 2024

BETWEEN:-

**DR. RACHNA SINGH D/O SHRI
SURENDRA SINGH, AGED ABOUT
41 YEARS, R/O F 108/ 33 SHIVAJI
NAGAR BHOPAL DISTRICT
BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI ABHINAV DUBEY - ADVOCATE)

AND

**1. THE STATE OF MADHYA
PRADESH THROUGH POLICE
STATION HABIBGANJ
DISTRICT BHOPAL (MADHYA
PRADESH)**

**2. MUKESH SONI S/O SHRI RAM
SINGH SONI, AGED ABOUT 30
YEARS, R/O PLOT NO. 07,
SHARIRPAT, RAJENDRA
VIHAR, NEW AKASHWANI
COLONY, KOTA DISTRICT
KOTA (RAJASTHAN)**

.....RESPONDENTS

(BY SHRI DILIP PARIHAR – PANEL LAWYER)

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

ORDER

1. This application under section 482 Cr.P.C. has been filed seeking the following reliefs :-
 - i) to direct the learned trial Court to decide the M.J.C.R.No.106/2024 (application for cancellation of bail under section 439(2) Cr.P.C. to decide the application on merits of the applicant at the earliest, at the interest of justice,
 - ii) grant any other relief which this Honourable court deems fit and proper in the facts and circumstances of the case and in the interest of justice.
2. It is submitted by counsel for the applicant that applicant has filed an application under section 439(2) Cr.P.C., for which a separate M.J.C.R.No.106/2024 has been registered. However, instead of deciding the application, the trial Court has fixed the case for recording of statement of the applicant and accordingly, it is submitted that the trial Court may be directed to decide the application without recording the statement of the applicant.
3. Considered the submissions made by counsel for the applicant.
4. The applicant has not filed copy of the application filed under section 439(2) Cr.P.C., therefore, it is not clear that on what ground the application for cancellation of bail was filed. If the trial Court was of the view that there are certain allegations which require recording of evidence, then it is for the applicant to make a written application before the trial Court thereby giving up her right to lead evidence. Since the application under section 439(2) Cr.P.C. has not been placed on record, therefore, no direction can be given to the Court below. If the applicant does not wish to enter into the witness box, then she can move an application for the said purpose.

5. With aforesaid liberty, the application is **dismissed**.

(G.S. AHLUWALIA)
JUDGE

HS