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17-11-2020

Court 12

Allowed

C.R.M. 7898 of 2020

(Via Video Conference)

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 305 of 2020 dated 21.08.2020 under Sections 21(c)/29 of the N.D.P.S. Act.

Ismail Haque @ Ismail Sk.

Versus

State of West Bengal

Mr. Tapodip Gupta, Adv.

...for the petitioner.

Mr. Madhusudan Sur, Adv.

Mr. Manoranjan Mahata, Adv.

...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per the Rules within one month of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

The learned Counsel appearing on behalf of the petitioner submits that the petitioner has been falsely implicated in this case and no narcotic substance has been recovered from the petitioner. He has also relied upon an order passed by this Bench on 23rd September, 2020 in relation to one of the co-accused where this Bench had granted anticipatory bail to the said co-accused. He further submits that the petitioner stands on the same footing as that of Asadul Haque @ Ashadul Haque @ Prince in whose favour the prayer for anticipatory bail was allowed on 23rd September, 2020.

The learned Counsel appearing on behalf of the State opposes the prayer for anticipatory bail and submits that on the basis of the statement of a co-accused, the name of the petitioner has been included in the FIR.

Having regard to the fact that no narcotic substance has been recovered

from the petitioner and he was implicated on the basis of the statement of a co-accused which is inadmissible, the restriction under Section 37 of the N.D.P.S. Act cannot apply. Accordingly, we allow the application for anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on anticipatory bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

It is further directed that the petitioner shall meet the I.O. of the case once a week.

The application for anticipatory bail is allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)