

10.10.2023

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Allowed

C.R.M. (A) No. 4313 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No. 269 of 2023 dated 04.09.2023 under Sections 21(C)/29 of the NDPS Act.

And

In Re : Hayat Sk. @ Hayet Mandal petitioner

Md. G. N. Imrohi

.....for the petitioner

Mr. Angshuman Chakraborty

....for the State

1. Learned Counsel of the petitioner submits no narcotics was recovered from his possession. He has been falsely implicated. He prays for anticipatory bail.

2. Learned Counsel for the State opposes the prayer for anticipatory bail and submits his complicity has transpired from the statement of the co-accused before police officer. Investigation is complete.

3. We have considered the materials on record. Complicity of the petitioner has arisen on the basis of inadmissible evidence i.e. statement of co-accused before police officer. No legally admissible material disclosing his complicity in the offence is placed on record. Under such circumstances, we are inclined to grant anticipatory bail to the petitioner but subject to conditions.

4. Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of

Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that he shall appear before the court below and pray for regular bail within a period of four weeks from date and on further condition that petitioner shall meet the investigating officer once in a week until further orders.

5. This application for anticipatory bail is, thus, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)