

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.1815 OF 2022****ORDER:**

This petition is filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/Accused No.4 in connection with Crime No.194 of 2021 on the file of Station House Officer, Shah Inayathgunj Police Station, Goshamahal Division, Hyderabad, wherein the petitioner/Accused No.4 is alleged to have committed the offence punishable under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. Heard the learned counsel for the petitioner/Accused No.4 and the learned Assistant Public Prosecutor for the respondent-State. Perused the record.

3. The case of the prosecution is that Accused Nos.1 and 3 were caught in possession of 80 kgs of ganja and according to their confession the police identified the petitioner/Accused No.4 as the person who sold the said ganja. Further, the petitioner/Accused

No.4 was arrested on the basis of his confession and remanded to judicial custody. The petitioner/Accused No.4 is alleged to have confessed of selling ganja over a period of time, however, there are no seizures effected pursuant to the said confession.

4. Learned Assistant Public Prosecutor submits that there are four other cases which were earlier registered, three cases pertaining to the year 2016 and one case is of the year 2021. However, keeping in view that apart from this statement under Section 67 of NDPS Act there are no other seizures in the present case. The Hon'ble Supreme Court in Tofan Singh vs. The State of Tamilnadu held that statements made under Section 67 of NDPS Act would be inadmissible. For the said reason, the petitioner/Accused No.4 can be released on bail.

5. Accordingly, the Criminal Petition is allowed and the petitioner/Accused No.4 is granted bail subject to the following conditions:

i) The petitioner/Accused No.4 shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties

for a like sum each to the satisfaction of the Metropolitan Sessions Judge at Hyderabad.

ii) The petitioner/Accused No.4 shall appear before the Station House Officer, Shah Inayathgunj Police Station, on every Tuesday and Friday between 10.00 a.m. and 1.00 p.m. for a period of three months.

iii) The prosecution is at liberty to move for cancellation of bail in the event of this petitioner/Accused No.4 indulging in similar activity attracting penal consequences under NDPS.

iv) The petitioner/Accused No.4 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date: 25.04.2022
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K.SURENDER, J