

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION No.3619 OF 2022****ORDER:**

This criminal 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 S.C.No.70 of 2019 on the file of Special Sessions Judge for SC/ST (POA) Act Cases-cum-VII Additional District & Sessions Judge, Nalgonda, being tried for the offences punishable under Section 302 read with Section 34 of IPC, 120-B read with section 109 of IPC and Section 3(2)(b) of the SCs/STs (POA) Act and Section 25(1)(A) and 27(3) of the Indian Arms 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 petitioner/Accused No.4 was involved in the said case for the offence under Section 302 of Indian Penal Code and was released on bail on 19.12.2018. Thereafter, the petitioner was shown as an accused in an NDPS case in Crime No.381 of 2021 of

Nalgonda II Town Police Station, for which reason he was arrested and remanded to judicial custody on 07.12.2021 and later he enlarged on bail on 24.02.2022 in the said crime. The jail authorities refused to release the petitioner/Accused No.4 after bail was granted in the NDPS case quoting reason that 'an order is required from the concerned Court to release the petitioner on bail'. Accordingly, the petitioner filed Crl.M.P.No.98 of 2022 praying the Court to release him. Crl.M.P.No.418 of 2021 was filed by the prosecution seeking cancellation of bail against the petitioner on the ground that he has violated one of the conditions while being released on bail on 19.12.2018 that 'he should not involve in any other case'. The learned Special Sessions Judge disposed of both the petitions by order dated 06.04.2022 finding that, in the facts and circumstances of his being under detention in the NDPS case, violating the condition that he should not involve in any other case, learned Special Sessions Judge found that the bail granted to him automatically stands cancelled and accordingly, disposed off both the criminal petitions as mentioned above.

4. The main ground on which the petitioner/Accused No.4 was refused to be released is that he violated the condition while

granting bail and consequently for his non appearance the bond stands cancelled under Section 446-A of Cr.P.C., for which reason the bond is forfeited and bail stands cancelled.

5. Admittedly, the petitioner/Accused No.4 was appearing before the concerned Court in S.C.No.70 of 2019 on every date of hearing and due to his involvement in the NDPS case, the petitioner/Accused No.4 was in jail and being produced before the Sessions Court on execution of PT warrant.

6. Since the petitioner is accused of the offence under NDPS Act and no Court has found him guilty for the acts alleged and he was regularly appearing before the Sessions Court, however, due to his arrest in the NDPS case, he was put in jail.

7. In the said circumstances, the petitioner/Accused No.4 is directed to be released on bail in S.C.No.70 of 2019 on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of Special Sessions Judge for SC/ST (POA) Act Cases-cum-VII Additional District & Sessions Judge, Nalgonda.

ii) The petitioner/Accused No.4 shall appear before the Sessions Court on every date failing which the learned Sessions Judge shall take appropriate steps in accordance with law if the trial is delayed for the reason of his non appearance.

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

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, pending if any, shall stand closed.

Date: 26.04.2022  
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**K.SURENDER, J**