

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.7132 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 petitioners who are arrayed as Accused Nos.1 and 2 in Crime No.170 of 2022 on the file of Station House Officer, Ghanpur-M Police Station, Jayashankar-Bhupalapally District registered for the offence punishable under Section 8(c) read with Section 20(b) of NDPS Act.

2. Heard learned counsel for the petitioners/Accused Nos.1 and 2 and the learned Public Prosecutor for the respondent-State. Perused the record.

3. The petitioners are Accused Nos.1 and 2 who allegedly engaged the services of Accused Nos.3 to 5 to transport ganja and they were instructed to call these petitioners on phone once they reached Hyderabad.

4. Learned counsel for the petitioners submits that Accused Nos.3 to 5 were granted statutory bail. He further submits that

though there was no recovery from these petitioners, these petitioners are arrayed as Accused Nos.1 and 2 only on the basis of confession of Accused Nos.3 to 5.

5. Learned Assistant Public Prosecutor submits that as per the confession, these two petitioners were complicit in getting contraband which is 405 kgs of ganja to Hyderabad. However, apart from the said confession, there is no other evidence which is collected by the investigating agency to implicate these petitioners.

6. The Hon'ble Supreme Court in case of *Tofan Singh vs. The State of Tamil Nadu*¹ held that mere confession would not suffice in such cases to base conviction.

7. In the said circumstances, when there is no other evidence connecting the petitioners to the alleged crime, these petitioners can be granted the relief of bail.

8. Accordingly, the Criminal Petition is allowed and the petitioners/Accused Nos.1 and 2 are granted bail subject to the following conditions:

¹ (2021) 4 SCC 1

- i) The petitioners/Accused Nos.1 and 2 shall execute personal bonds for a sum of Rs.1,00,000/- (Rupees One Lakh only) each with two sureties for a like sum each to the satisfaction of Special Sessions Judge for NDPS Cases-cum-Principle District and Sessions Judge at Jayashanker Bhupalpally.
- ii) The petitioners/Accused Nos.1 and 2 shall appear before the concerned Station House Officer on everyday between 10.30 AM and 01.00 PM for a period of thirty (30) days and thereafter shall appear as and when required.
- iii) The petitioners/Accused Nos.1 and 2 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date: 16.08.2022
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K.SURENDER, J