

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NO.6636 OF 2023****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.8 in S.C.N.D.P.S.No.71 of 2023 on the file of I Additional District & Sessions Judge at Malkajgiri, Medchal Malkajgiri District, registered for the offence under Section 8(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘the NPDS Act’).

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State and perused the record.

3. The case of the Directorate of Revenue Intelligence (DRI) is that on 22.12.2022, they have gone to the premises at plot No.6P, 7P of Chengicherla, Medipally Mandal. The DRI officers found A-3, A-4, A-5, A-6 and A-7 were manufacturing ‘Mephedrone’.

4. Having concluded the seizure procedure, the DRI concluded the investigation and filed a complaint against this petitioner and seven others. At page No.95 of the complaint, according to DRI, A-4 approached the petitioner to work as a helper for a salary of Rs.15,000/-p.m. He was assigned activities like cleaning the factory premises, getting the raw material to the premises and other errands assigned to him. In the voluntary statement given on 21.12.2022, petitioner stated that he knew A-4 for the past 6 years and was working at the factory. He saw A-3, A-4 and A-5 bringing a new speaker of around 2 feet height into the room and conceal some powder in it. When he asked A-4 about it, A-4 said that they were drugs manufactured at the factory premises, that only one batch of 'Mephedrone' was manufactured since started working which was seized by the officers on 21.12.2022. He knew that drugs were being illegally manufactured.

5. Learned counsel appearing for the petitioner would submit that petitioner was working in the factory and had nothing to do with the manufacture of drugs.

6. On the other hand, learned counsel appearing for the DRI would submit that the petitioner had knowledge about the drugs being manufactured in the premises for which reason he is also liable for abetment and conspiracy. Accordingly, he cannot be released on bail since there is a bar under Section 37 of IPC.

7. Even according to the complaint, the services of this petitioner were taken by A-4 for running errands in the factory premises by paying an amount of Rs.15,000/- p.m. The statement made under Section 67 of the NDPS Act is not admissible as per the judgment of the Hon'ble Supreme Court in ***Toofan Singh vs. State of Tamil Nadu***¹. Though the case is at the stage of trial, the only evidence against this petitioner according to the complaint is the statement made under Section 67 of the NDPS Act. Admittedly, the complaint does not speak about the petitioner doing any kind of activity to infer involvement of the petitioner in preparation of the drug 'Mephedrone'. For the said reason, this Court is inclined to grant bail to the petitioner subject to the following conditions:

¹ AIR 2020 SC 5592

i) The petitioner/Accused shall execute 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 I Additional District & Sessions Judge at Malkajgiri, Medchal Malkajgiri District.

ii) The petitioner/Accused, after release shall appear before the concerned Station House Officer every day for a period of four weeks from the date of this order. It is needless to say, he shall appear before the concerned Court for the purpose of completion of trial.

iii) The petitioner/Accused shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

8. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, pending if any, shall stand closed.

Date: 31.07.2023
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K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO. 7148 OF 2022

Dt.17.08.2022

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