

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NO.7948 OF 2023****ORDER:**

1. 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.2 in Crime.No.242 of 2023 on the file of Alwal Police Station, Cyberabad, registered for the offence under Section 20 (b) (ii) (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 petitioner is seeking bail on the ground that the direction of the Hon’ble Supreme Court reported in ***Union of India v. Mohan Lal and another***¹ was not followed. This Court directed for the report from the concerned Judge. The report dated 15.09.2023 is received which reads as under:-

¹ (2016) 3 SCC 379

“I submit that as seen from the record relating to Cr.No.242/2023 of Alwal P.S., X Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Medchal (Sri K.Pardha Saradhi Rao), on the requisition dated 14.04.2023 filed by the Inspector of Police, Alwal, has issued a certificate U/sec. 52-A(3) of the NDPS Act, Inspector of Police and that it is not found in the record, whether the samples were drawn by the police in the presence of the said Magistrate or not and that I could not verify personally from the said Magistrate whether the samples were drawn in his presence or not, as, the said Magistrate is no more now and he died recently on 10.08.2023”

4. As seen from the remand report, the samples were not drawn in the presence of the Magistrate.

5. In the said circumstances, when there is violation of the procedure, this Court deems it appropriate to grant the relief of regular bail to the petitioner, subject to following conditions:

i) The petitioner/Accused shall execute 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 I Additional District and Sessions Judge-Cum-Designated Court for Trial of Offences Under NDPS Act, at Malkajgiri.

ii) The petitioner/Accused after release shall appear before the concerned Station House Officer as and when required for the purpose of investigation.

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

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

K.SURENDER, J

Date: 25.09.2023
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THE HON'BLE SRI JUSTICE K.SURENDER

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Dt.25.09.2023

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