THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.8226 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 petitioners-accused Nos.1 and 2 in Crime No.48 of 2023 pending on the file of Station House Officer, Prohibition and Excise Station Golconda, Hyderabad, filed for the offence punishable under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent-State. Perused the record.

3. The Prohibition and Excise personnel, Golconda, have arrested these petitioners and sent them to judicial custody on 07.07.2023, as they were found in possession of 20 kgs of ganja.

4. Learned counsel appearing for the petitioners would submit that the petitioners were in possession of two bags each containing 10 kgs of ganja and assuming that each petitioner is in possession of

one bag, it is less than commercial quantity. Therefore, learned counsel prayed to grant the relief of regular bail to the petitioners.

5. On questioning, the learned Additional Public Prosecutor has produced a copy of application dated 05.09.2023 which was filed before the learned Magistrate for endorsing the inventory and also for drawing samples.

6. A perusal of the above application discloses that it was filed with a delay of nearly two (2) months. Further, learned Additional Public Prosecutor has expressed difficulty in producing and sampling before the Magistrates on account of the work pending with Magistrates.

7. The Hon'ble Supreme Court in *Union of India vs. Mohanlal and another*[1], held that sampling has to be invariably done before the Magistrate as soon as possible.

8. In the present case, there is a delay of two (2) months and when there is violation of the directions issued by the Hon'ble Supreme Court in *Union of India vs. Mohanlal's* case, this Court is

[1] (2016) 3 SCC 379

inclined to grant the relief of regular bail to the petitioners-accused Nos.1 and 2.

9. Accordingly, the Criminal Petition is allowed and the petitioners-accused Nos.1 and 2 are granted regular bail subject to the following conditions:

i) The petitioners - accused Nos.1 and 2 shall execute a personal bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum each to the satisfaction of the II Additional Metropolitan Sessions Judge, Hyderabad.

ii) The petitioners-accused Nos.1 and 2 shall appear before the concerned Station House Officer on every Monday between 10.30 AM and 01.00 PM, for a period of eight (8) weeks or until filing of charge sheet, whichever is earlier.

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.

K.SURENDER, J

Date: 08.09.2023

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