

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.10276 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.1 in Crime.No.237 of 2023 on the file of Shahinayathgunj Police Station, Hyderabad registered for the offences under Section 20(b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NPDS Act').
2. Heard learned counsel for the petitioner and learned Assistant Public Prosecutor for the respondent-State and perused the record.
3. The petitioner is seeking regular bail. She was arrested on 24.09.2023 for being in possession of 22 kgs. of ganja.
4. Learned counsel appearing for the petitioner would submit that petitioner sought bail mainly on the ground that procedure prescribed under Section 52-A of NDPS Act was not followed.
5. This Court sought for a report from the concerned Magistrate as to why the procedure was not followed. Learned Magistrate sent a report dated 04.11.2023 which reads as under:-

“As per the seizure report dated 24.09.2023, requisition filed in this court on 20.10.2023 vide S.R.No.3628/2023 for check and put up and the next date was given for inventory on 21.10.2023 but the typist was on leave due to ill health and the date was given to 30.10.2023 due to Dussera Festival. On 30.10.2023 inventory was completed and the police was not submitted the photographs till today i.e., on 04-11-2023.

Therefore, it is submitted that the directions given to the police Shahinayathgunj to submit the photographs today ie., 04-11-2023 and submit in the court. The police produced the photographs and the inventory file in Cr.No.237/2023 of PS Shahinayathgunj, Hyderabad submitted to the Hon’ble Metropolitan Sessions Judge, Hyderabad vide Dis.No.1487/2023, dt.04-11-2023.”

6. Learned Additional Public Prosecutor would submit that there is a Memo issued by this Court whereby the procedure under Section 52-A of NDPS Act should be followed within 7 days. The requisition was filed by the Police after 25 days of seizure which is in grave violation of Memo issued by this Court and also the directions of the Hon’ble Supreme Court in ***Union of India v. Mohan Lal and another***¹.

7. In the said circumstances, the petitioner can be granted regular bail, subject to following conditions:-

¹ (2016) 3 SCC 379

i) The petitioner/Accused No.1 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 Metropolitan Sessions Judge, Hyderabad.

ii) The petitioner/Accused No.1 after release shall appear before the concerned Station House Officer at 10:00 a.m. on every Monday for a period of four weeks for the purpose of investigation and thereafter, as and when required.

iii) The petitioner/Accused No.1 shall abide by the other conditions stipulated under Section 437(3) of Cr.P.C.

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

Date : 08.11.2023
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K.SURENDER, J

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Dt.08.11.2023

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