THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO.11666 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 in COR No.240 of 2023, on the file of the Prohibition and Excise Station, Narsapur, Medak District, registered for the offences under Sections 8 (c) r/w 22 (c) of NDPS Act, 1985.

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

3. The case of the Prohibition and Excise Police, Narsapur is that they took into possession of white substance on 06.11.2023 suspecting it to be Alprozolam.

4. On the basis of such suspicion, the petitioner was arrested and remanded to judicial custody.

5. Learned senior counsel appearing for the petitioner would submit that suspicion cannot form basis to arrest the accused when there is no prima facie case that the alleged white substance is Alprozolam or any other Narcotic drug. He further submits that the sampling was also not done till date.

6. Learned Additional Public Prosecutor on instructions would submit that the sampling is not done as on date.

7. There is no reason why the Excise Personnel failed to conduct spot test to determine the character of the powder to be Narcotic substance.

8. In the Judgment of the Hon'ble Supreme Court in case of ***Union of India vs. Mohanlal and another***[1], it is held that the sampling has to be immediately done. Both in the absence of concluding that the substance found is Narcotic drug and sampling not done till date as per the directions of the Hon'ble Supreme Court, this Court

[1] (2016)3 SCC 379

deems it appropriate to grant the relief of bail to this petitioner subject to following conditions:

i) The petitioner/accused shall execute personal bond for a sum of Rs.50,000/- (Rupees Fifty Five thousand only) with two sureties, for a like sum each to the satisfaction of Judicial First Class Magistrate, Medak District.

ii) The petitioner/accused after release shall appear before the concerned Station House Officer at 10:00 a.m. on every Monday and Wednesday for a period of eight weeks and thereafter, as and when required for the purpose of investigation.

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

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

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K.SURENDER, J

Date: 01.12.2023
gvl/pvt

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Dt.01.12.2023

gvl/pvt