

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.11809 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 NDPS.SC.No.51 of 2021, on the file of Metropolitan Sessions Judge, Hyderabad, registered for the offences under Sections 8 (c) r/w. 20, 28 and 29 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 allegation against this petitioner/A-1 is that on his instructions, A-2 was transporting ganja weighing 1050 kgs. Having conducted investigation, the Directorate of Revenue Intelligence (DRI) filed charge sheet.
4. Learned senior counsel appearing for the petitioner would submit that more than 3 years have been passed since petitioner is in jail, there is no progress in the trial. He relied on the

judgment of the Hon'ble Supreme Court in ***Rabi Prakash v. State of Odisha***¹, wherein it is held as follows:

“As regard to the twin conditions contained in Section 37 of the NDOS Act, learned counsel for the respondent-State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition reformation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”

The facts of the above case are similar to the facts of the present case.

5. Since the petitioner is in jail for more than three years, this Court deems it appropriate to grant the relief of regular bail, subject to following conditions:-

- i) The petitioner/Accused No.2 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 the Metropolitan Sessions Judge, Hyderabad.
- ii) The petitioner/Accused No.2 after release shall appear before the concerned Court on every date of hearing. The

¹ 2023 SCC Online SC 1109

Court concerned is directed to conclude the trial within 6 months from the date of this order.

(iii) The petitioner/Accused No.2 shall abide by the other conditions stipulated under Section 437(3) of Cr.P.C.

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

Date : 06.12.2023
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K.SURENDER, J

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Dt.06.12.2023

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