

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NO.12796 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.3 in Crime No.89 of 2023, on the file of Chowdariguda Police Station, Cyberabad, registered for the offence punishable under Sections 8 (c) r/w 20 (b) (ii) (C) of NDPS Act, 1985.
2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State and perused the record.
3. The case of the prosecution is that on 15.07.2023 having received the credible information, the Police Chowdariguda, Hyderabad intercepted two vehicles and seized 170 kgs. of ganja which is in 89 packets, each packet containing 2kgs. of ganja. On the next day, i.e., on 16.07.2023, the accused were produced before the concerned Magistrate and were remanded by the learned Magistrate.

4. Learned counsel appearing for the petitioner would submit that there is violation of the control order whereby the homogeneous mixture has to be made before drawing the samples. Nowhere in the process of sampling or the certificate of Magistrate, it is mentioned that samples were drawn after identifying all the packets and homogeneous mixture being made. According to the certificate issued by the learned Magistrate, it is only mentioned that inventory is correct and phonographs were taken in accordance with the list, however, it is not mentioned from where these samples were drawn and sampling was done.

5. Keeping in view that *prima facie* there is violation of control order while drawing samples, this Court is inclined to grant the relief of regular bail, subject to following conditions:

- i) The petitioner/accused No.3 shall execute personal bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties i.e., one local surety and the other from the native place, for a like sum each to the satisfaction of Metropolitan Sessions Judge, R.R.District at L.B.Nagar.

ii) The petitioner/accused No.3 after release shall appear before the concerned Station House Officer at 10:00 a.m. on every Monday for a period of eight weeks and thereafter, as and when required for the purpose of investigation.

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

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

Date: 29.12.2023
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K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

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Dt.29.12.2023

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