

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.686 OF 2024

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.5 in NCB.F.No /48/1/5/2021/NCB/SUB-ZONE/HYD in SC.NDPS.No.74 of 2022 on the file of Metropolitan Sessions Judge-Cum-I Additional District Judge, Medchal-Mlkajgiri District, registered for the offences under Sections 8 (c) r/w. 20(b)(ii)(c), 27A, 28 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NPDS Act').
2. Heard learned counsel for the petitioner and learned Special Public Prosecutor for NCB -respondent and perused the record.
3. The case of the prosecution is that this petitioner and others were found in possession of 694 kgs. of ganja The said ganja was transported in a truck. The NCB apprehended this petitioner and others on 04.04.2021 on specific information. Thereafter, the accused were investigated and complaint was filed. The accused approached this Court and this Court by a common order dated 09.08.2022 refused to grant bail to the petitioner and

directed the Court below to conclude the trial within a period of 6 months.

4. Learned counsel appearing for the petitioner would submit that though 15 months have passed after the orders being passed by this Court, NCB has failed to produce witnesses and conclude the trial. He relied on the judgment of the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha***¹.

5. On the other hand, learned Special Public Prosecutor appearing for NCB would submit that case was transferred from L.B.Nagar to Malkajgiri Court, for the said reason, there was delay in examining the witnesses. He further submits that 4 witnesses were examined and 4 witnesses were left to be examined.

6. Though this Court had directed NCB to complete the trial within the specified time of 6 months, it has failed to do so. Further it is 15 months since the said order was passed. Failure to produce witnesses and to conclude the trial cannot be a ground to extend the detention of the petitioner. Since it is almost 3 years from the date of his arrest and detention, this Court is inclined to grant the relief of regular bail, subject to following conditions:-

¹ 2023 SCC online SC 1109

i) The petitioner/Accused No.5 shall execute personal bond for a sum of Rs.50,000/- (Rupees Fifty 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 the Metropolitan Sessions Judge, at Kushaiguda.

ii) The petitioner/Accused No.5 after release shall appear before the concerned Court on every date of hearing.

iii) The petitioner/Accused No.5 shall abide by the other conditions stipulated under Section 437(3) of Cr.P.C.

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

Date : 23.01.2024
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K.SURENDER, J

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Dt.23.01.2024

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