

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.12547 & 12412 of 2023

COMMON ORDER:

1. These Criminal Petitions are filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioners/Accused Nos.3 and 1 respectively in S.C.No.83 of 2023 on the file of Metropolitan Sessions Judge, Cyberabad-Cum-I Additional District and Sessions Judge at L.B.Nagar, registered for the offences under Section 8 (c) r/w 20 (b) (ii) (c), 25, 27A, 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NPDS Act').
2. Since the petitioners in both the petitions are accused Nos.3 and 1 respectively in the very same crime, both the petitions are heard together and disposed off by this common order.
3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent-State and perused the record.

4. The petitioners are seeking bail in the case instituted by NCB. According to the prosecution, 210 kgs. of dry ganja was seized from these petitioners and others. After investigation, the complaint was filed by NCB.

5. Learned counsel appearing for the petitioner would submit that there is violation of the observations of the Hon'ble Supreme Court in ***Union of India vs. Mohanlal and another***¹. Though seizures were effected on 12.04.2023, sampling was done on 05.08.2023.

6. On the other hand, learned Special counsel appearing for NCB would submit that in fact an application was made on 25.04.2023 within 14 days of seizure, however, the said application was returned by the concerned Court on 14.07.2023 stating that the said application has to be filed before the appropriate Court. Accordingly, the said application which was returned on 14.07.2023 was re-submitted on 18.07.2023. Accordingly, sampling was done on 05.08.2023.

¹ (2016)3 SCC 379

7. However, there is delay in approaching the concerned Court by the NCB authorities.

8. Admittedly, an application was filed on 25.04.2023, however, the NCB authorities have again filed the petition on 18.07.2023. It is not stated in the complaint regarding the safe custody of the material in between 13.04.2023 and 18.07.2023. Likewise, nothing is stated about the contraband in between 18.07.2023 and 05.08.2023, the day on which the sampling was done. The Hon'ble Supreme Court held that requisition for sampling should be done immediately. The reasonable time indicated would be around 3 days. As such, the said delay in moving the concerned Court for sampling is in violation of observations of the Hon'ble Supreme Court in **Mohanlal's** case.

9. In the said circumstances, the relief of regular bail can be considered, subject to following conditions:-

- i) The petitioners/Accused Nos.3 and 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 Metropolitan Sessions Judge,

Cyberabad-Cum-I Additional District and Sessions Judge at L.B.Nagar, Ranga Reddy District.

ii) The petitioner/Accused Nos.3 and 1 after release shall appear before the concerned Station House Officer everyday at 10:00 a.m. for a period of eight weeks and thereafter, as and when required for the purpose of investigation.

iii) The petitioners/Accused Nos.3 and 1 shall abide by the other conditions stipulated under Section 437(3) of Cr.P.C.

10. Accordingly, these Criminal Petitions are allowed. Miscellaneous applications, pending if any, shall stand closed.

Date : 02.01.2024
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K.SURENDER, J

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Dt.02.01.2024

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