

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.4404 OF 2022****ORDER:**

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 who is arrayed as Accused No.1 in Crime No.353 of 2021 on the file of Adibatla Police Station, Rachakonda Commissionerate for the offences punishable under Sections 302, 201 and 120(b) read with Section 34 of Indian Penal Code and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

2. Heard learned counsel for the petitioner/Accused and the learned Public Prosecutor for the respondent-State. Perused the record.

3. The petitioner filed an application under Section 167(2) Cr.P.C. seeking mandatory bail for the reason of charge sheet not being filed within the period of ninety (90) days. Learned Special Sessions Judge Trial of Cases under SCs and STs (POA) Act, 1989 – cum – VII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar by order dated 27.04.2022 dismissed the said

petition filed under Section 167(2) Cr.P.C. on the ground that investigation is not completed and Accused No.2 was not apprehended and further the reasoning given by the learned Special Sessions Judge is that if the petitioner is released it will be hurdle to the investigation.

4. The right accrued under Section 167(2) Cr.P.C. is an indefeasible right as stated by the Hon'ble Supreme Court in *Sanjay Dutt vs. State through C.B.I. Bombay's* case. Unless there is any legal impediment for grant of bail under Section 167 (2) Cr.P.C. the Court concerned cannot refuse to grant bail under Section 167 (2) Cr.P.C. once right accrues to the petitioner.

5. Learned Special Sessions Judge had committed grave error in refusing to release the petitioner on bail under Section 167(2) Cr.P.C. by giving untenable reasons of pending investigation and not apprehending the other Accused/A2.

6. The reasons given by the learned Special Sessions Judge cannot be sustained and it is mandatory that whenever an Accused moves the concerned Court under Section 167(2) Cr.P.C. the Court has no other alternative but to grant bail if the conditions mentioned under Section 167 Cr.P.C. are satisfied.

7. In view of the above, the Criminal Petition is allowed and the petitioner/Accused No.1 is granted bail subject to the following conditions:

- i) The petitioner/Accused No.1 shall execute a personal bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties for a like sum each to the satisfaction of XXV Metropolitan Magistrate at Ibrahimpatnam.
- ii) The petitioner/Accused No.1 shall appear before the concerned Station House Officer on every Sunday between 10.30 AM and 01.00 PM for a period of three (03) months or until filing of charge sheet, whichever is earlier.
- iii) The petitioner/Accused No.1 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

K.SURENDER, J

Date: 07.06.2022
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