

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.5875 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 in Crime No.120 of 2022 on the file of Station House Officer, Alwal Police Station, Pet Basheerabad, Cyberabad registered for the offences punishable under Sections 366 and 376(2)(n) of Indian Penal Code and Section 5(1) read with Section 6, 12 of POCSO Act.

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

3. The case of the prosecution is that, the petitioner was arrested on 21.03.2022 for allegedly taking the daughter of the *de facto* complainant on 21.02.2022 to Uttar Pradesh and thereafter the petitioner had dropped her at Secunderabad after keeping her in his captivity at Gaziabad, Uttar Pradesh State for twenty (20) days.

4. Learned counsel for the petitioner submits that, an application under Section 167(2) Cr.P.C. vide Crl.M.P.No.121 of 2022 moved before the I Addl.District and Sessions Judge-cum-Metropolitan Sessions Judge, Cyberabad at Medchal-Malkajgiri District at Malkajgiri to release the petitioner on bail, as no charge sheet was filed within the prescribed period of 90 days. The learned Sessions Judge dismissed the application on the ground that the offence committed is grave offence.

5. In the said circumstances, the right of bail under Section 167(2) of Cr.P.C. is a statutory right and cannot be denied under any circumstances unless either interim or final report is filed. The Hon'ble Supreme Court of India in *Sanjay Dutt vs. State through CBI Bombay's* has described the right which accrues under Section 167(2) of Cr.P.C. is an indefeasible right. Thus, the order of the learned Sessions Judge vide Crl.M.P.No.121 of 2022 is *set aside* and the relief of bail granted to this petitioner/Accused granted subject to conditions.

6. Accordingly, the Criminal Petition is allowed and the petitioner/Accused is granted bail subject to the following conditions:

i) The petitioner/Accused shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with **one local surety and one native surety** for a like sum each to the satisfaction of XXIII Additional Metropolitan Magistrate at Medchal.

ii) The petitioner/Accused shall appear before the concerned Station House Officer on every Monday 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 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: 07.07.2022
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