

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No. 6410 of 2022

ORDER:

This Criminal Petition is filed under Section 437 & 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking to enlarge the petitioner/CCL-5 on bail in connection with Crime No.295 of 2022, on the file of Jubilee Hills Police Station, Hyderabad, registered for the offences punishable under Section 354, 323 of Indian Penal Code and under Section 9, and 10 of POCSO Act, 2012,

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

3. The case of the prosecution is that this petitioner, who is a juvenile, and other four juveniles are involved in the said crime on the allegations of committing offence under Section 376 (D) and 323 of Indian Penal Code and Section 5 and 6 of POCSO Act.

4. Learned Counsel for the petitioner submits that all the four Juveniles were released by the Court of V Additional Chief Metropolitan Magistrate-cum-Prl.Magistrate of Juvenile Justice Board, Hyderabad, vide Release Order dt. 26.07.2022 addressed to the Superintendent, Observation Home for Boys, Saidabad, Hyderabad, vide Dis.No.1355/V ADDL.C.M.M./JJB/HYD/2022. He also submits that since all the other Juveniles have been released on bail, this petitioner who is before this

Court can also be released on the same conditions imposed by the V Additional Chief Metropolitan Magistrate-cum-Prl.Magistrate of Juvenile Justice Board, Hyderabad.

5. Learned Assistant Public Prosecutor submits that this Court cannot entertain an application under Section 439 of Cr.P.C while releasing Juvenile on bail. He also submits that remedy if any before the High Court will be only by way of an appeal, if the concerned Magistrate refused the bail application.

6. As seen from the Act, there are no such restrictions imposed ousting the jurisdiction of the High Court to grant bail to a Juvenile under Section 439 of Cr.P.C.

7. In the said circumstances, the petitioner/CCL-5 can be granted bail on the same conditions imposed by the V Additional Chief Metropolitan Magistrate-cum-Prl.Magistrate of Juvenile Justice Board, Hyderabad, vide Release Order dt. 26.07.2022.

- i. The petitioner/CCL-5 is directed to be released on bail on his parents executing parental bond before the V Additional Chief Metropolitan Magistrate-cum-Prl.Magistrate of Juvenile Justice Board, Hyderabad, and hand over the petitioner/CCL-5 to his parents, on proper identification, if he is not required in any other case.
- ii. The mother of the petitioner shall furnish an undertaking that upon release on bail he will not be permitted to come into contact with victim, association

with any unknown criminal or be exposed to any moral, physical or psychological danger and she will ensure that the petitioner do not repeat the offence and then she will encourage the petitioner to pursue his studies.

- iii. The petitioner and his mother will report to the District Probation Officer concerned on first Monday of every Month for a period of six months.
- iv. The District Probation Officer will keep strict vigilance on the activities of the petitioner and submit monthly report to this Board for a period of six months.
- v. If the parents of the petitioner/CCL-5 changes their place of residence, they have to intimate the same to this Board and furnish their new address.
- vi. The parents of the petitioner are directed to deposit Passport of the petitioner before this Board, if at all passport is not there, they have to file affidavit in this regard.

8. Accordingly, the criminal petition is allowed.

Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

K.SURENDER, J

Date :27.07.2022

Note: Issue CC by today

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Dt.27.07.2022

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