

# Law of Remand u/s 167 CrPC

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1. **No mechanical grant of remand by magistrate u/s 167 CrPC** : The act of directing remand of an accused is fundamentally a judicial function. The Magistrate does not act in executive capacity while ordering the detention of an accused. While exercising this judicial act, it is obligatory on the part of the Magistrate to satisfy himself whether the materials placed before him justify such a remand or, to put it differently, whether there exist reasonable grounds to commit the accused to custody and extend his remand. The purpose of remand as postulated under Section 167 is that investigation cannot be completed within 24 hours. It enables the Magistrate to see that the remand is really necessary. This requires the investigating agency to send the case diary along with the remand report so that the Magistrate can appreciate the factual scenario and apply his mind whether there is a warrant for police remand or justification for judicial remand or there is no need for any remand at all. It is obligatory on the part of the Magistrate to apply his mind and not to pass an order of remand automatically or in a mechanical manner. See : **Manubhai Ratilal Patel Tr. Ushaben Vs. State of Gujarat and Others, AIR 2013 SC 313.**
- 1.2. **Accused has right to oppose remand application of the IO:** Presence of accused either physically or virtually is sine qua non at the time of remand of the accused u/s 167 of CrPC. Accused has indefeasible right to oppose prayer for extension of remand. Failure to produce accused before Court while considering application for extension of time to investigate amounts to violation of his fundamental rights. See: **Jigar alias Jimmy Pravinchandra Adatiya Vs. State of Gujarat, AIR 2022 SC 4641**
- 2.1 **Remand order to be passed u/s 167 CrPC must be reasoned and reflect application of mind:** While authorizing detention of an accused u/s 167 CrPC, Magistrate has got a very wide discretion. Such an act is a judicial function and, therefore, a reasoned order indicating application of mind is certainly warranted. Further, words “such custody as such Magistrate thinks





















































