

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 818/2009

AKHLAK @ BHURA Petitioner
Through: Mr. S.M. Chopra, Adv.
versus

STATE OF THE NCT OF DELHI Respondent
Through: Mr. Sanjeev Bhandari, Addl. Standing
Counsel with
Insp. Sanjay Kumar, P.S. Nangloi.

CORAM:
HON'BLE MR. JUSTICE V.K. JAIN

% **ORDER**
02.12.2009

This is a petition for grant of parole for a period of three months in order to enable the petitioner to file Special Leave Petition before the Hon'ble Supreme Court, against the judgment of this Court in Crl.A. No.736/2005, whereby the appeal, filed by the appellant against his conviction under Section 302 of IPC was dismissed by a Division Bench of this Court.

2. The request of the petitioner sent vide dispatch No. 1084-85 dated 5th February, 2009 has been rejected vide order dated 1st October, 2009. The parole has been rejected on the following three grounds:

- a. Adverse police report from law & order point of view.
- b. The ground taken by the convict not found convicting for grant of parole.
- c. The convict can file SLP from jail itself, where free legal aid is also available.

3. As regards grounds No. 2 and 3, I find that neither of them is sustainable in law or based on relevant considerations. The petitioner having lost before a Division Bench of this Court, Special Leave Petition to the Hon'ble Supreme Court is his last resort. He would, therefore, naturally be anxious to engage the best lawyer he can and brief him adequately so that he is able to present his case effectively and completely before the Hon'ble Supreme Court.

4. Coming to the next ground for rejection of the request for parole, I find no material which would indicate that any law and order problem is likely to arise if the petitioner is released on parole. The learned counsel for the respondent has referred to the report from SSP, Saharanpur dated July 16, 2009. A perusal of the report would show that the family members of the petitioner are residing in a house built on about 50 Sq. Yds. of land and their general reputation in the locality is not good. The report does not indicate that any member of the family of the petitioner is involved in any unlawful activity or is involved in a criminal case. Hence, making a bald allegation that they did not enjoy a good reputation in the family is meaningless and not acceptable. Therefore, the grounds taken by the respondent for rejecting the parole is not legally sustainable.

5. As regards the possibility of the petitioner jumping parole, I feel that there is no reasonable likelihood of his jumping parole. The report dated 20th July, 2009 submitted by Inspector Rajbir Singh Malik of Police Station Nangloi shows that the family of the petitioner has been residing at the place given

in the report for the last about 7 years and no criminal record has been found against the petitioner except the case in which his conviction has been upheld by this Court. A perusal of the judgment of this Court dated January 14, 2009 would show that the petitioner and one Suleman had taken on rent a room in property No. 375 Rajdhani Park and all of them were engaged in moulding work of furniture. It further shows that on 29th July, 2002 when PW-1 Munir and the deceased were boxing, the appellant came and on hearing their voice thought that they were teasing him. Thereafter, the appellant took out a knife and stabbed the deceased and then ran away from there. Keeping in view the circumstances in which the murder is alleged to have been committed by the petitioner, he does not appear to be hardened criminal or a professional criminal. This is yet another circumstance, which indicates that he may not jump the parole and is genuinely interested in filing a Special Leave Petition before the Hon'ble Supreme Court.

6. For the reasons given in the preceding paragraphs, the order dated 1st October, 2009 whereby the parole was declined, is hereby quashed and the petitioner is directed to be released on parole, subject to the following terms:

- a. He shall not visit any place other than his native place and Delhi.
- b. He shall mark his presence atleast twice a week in the Police Station in local jurisdiction of which his family is residing.
- c. He shall furnish a personal bond in the sum of Rs.1,000/- with one surety of the like amount to the satisfaction of the trial court.
- d. He shall comply by such other conditions as may be imposed by the

respondent, within one week, to ensure that the petitioner does not escape while on parole.

7. The petitioner shall be released for one month, from the date of his release, after one week from today. The SHO Police Station Nangloi will send a communication to the SHO, within whose jurisdiction the native place of the petitioner is situated, requesting him to inform him in case the petitioner does not mark his presence in the Police Station on every Tuesday and Friday. If there is any breach of the terms on which parole is being granted to the petitioner, the respondent will be at liberty to arrest him and lodge him in the prison.

The petition stands disposed of.

One copy of order be sent to the petitioner through Jail Superintendent within two days.

One copy be given dasti to the learned Standing Counsel.

V.K. JAIN, J

DECEMBER 02, 2009
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