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

+ W.P.(CRL) 1138/2009

SRI OM

..... Petitioner
Through : Mr. Sharath Sampath and Mr. Navin
Chawla, Advs.

versus

STATE OF THE NCT OF DELHI Respondent
Through : Mr. Sanjeev Bhandari, Adv.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI

1. Whether reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

% **ORDER**
16.09.2009

G.S.SISTANI, J (ORAL)

1. By way of the present petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as, "Cr.P.C."), petitioner seeks grant of parole in case FIR No.156/2002 registered under Sections 363/364A/34 of the Indian Penal Code, 1860 (hereinafter referred to as, "IPC"), Police Station Seelam Pur, on the ground that he wishes to file a Special Leave Petition before the Supreme Court of India and to renew his social ties.
2. Notice. Mr. Sanjeev Bhandari, learned counsel for the State accepts notice.
3. Learned counsel for the petitioner submits that the petitioner is presently confined in Central Jail No.2, Tihar, New Delhi, and has completed approximately five years and seven months out of the

sentence of life imprisonment that was imposed upon him. Learned counsel also submits that the petitioner had filed an application to the Government of NCT of Delhi for grant of parole for a period of 3 months on the ground that the petitioner had to engage a Counsel for filing an S.L.P. before the Supreme of India, and also for arranging the necessary finance for the same, however, the same was not responded to by the Government of NCT. Learned counsel submits that the conduct of the petitioner throughout his detention in prison has been good and nothing adverse has ever been recorded against his character.

4. Learned counsel for the petitioner further places reliance upon the ruling of Supreme Court of India in ***Inder Singh Vs. State of Delhi***, reported at ***AIR 1978 SC 1091*** wherein their Lordships held that:

“if the behavior of these two prisoners shows responsibility and trustworthiness, liberal though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not build up may not further build up, after every period of one year, they should be enlarged on parole for a period of two months...”

“..... a guarded parole release every year at least a month, punctuating the total prison term, for maintaining his family ties. A prisoner cannot maintain his family ties by living in a small world of his own cribbed, cabinated and confined within the four walls of the prison.” Further the conduct of the petitioner has been exemplary throughout his period of prison and nothing adverse has been recorded against him.

5. I have heard learned counsel for the petitioner. Apt herein, it would be to reproduce the observations of the Apex Court on the point of parole. In the case of ***State of Haryana Vs. Mohinder Singh***, reported at ***(2000) 3 SCC 394*** it was observed as under:

“15. In *Poonam Lata v. M.L. Wadhawan*¹ this Court was considering the nature and scope of parole in a case of preventive detention. It said: (SCC p. 354, para 8)

‘8. The grant of parole is essentially an executive function and instances of release of detenus on parole were literally unknown until this Court and some of the High Courts in India in recent years made orders of release on parole on humanitarian considerations. Historically ‘parole’ is a concept known to military law and denotes release of a prisoner of war on promise to return. Parole has become an integral part of the English and American systems of criminal justice intertwined with the evolution of changing attitudes of the society towards crime and criminals. As a consequence of the introduction of parole into the penal system, all fixed-term sentences of imprisonment of above 18 months are subject to release on licence, that is, parole after a third of the period of sentence has been served. In those countries, parole is taken as an act of grace and not as a matter of right and the convict prisoner may be released on condition that he abides by the promise. It is a provisional release from confinement but is deemed to be a part of the imprisonment. Release on parole is a wing of the reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen. Parole is thus a grant of partial liberty or lessening of restrictions to a convict prisoner, but release on parole does not change the status of the prisoner. Rules are framed providing supervision by parole authorities of the convicts released on parole and in case of failure to perform the promise, the convict released on parole is directed to surrender to custody.”

6. Latest nominal roll of the petitioner has been received and as on 30.07.2009, the petitioner has undergone imprisonment for a period of approximately five years, seven months and twenty six days.

¹ (1987) 3 SCC 347 : 1987 SCC (Cri) 506

Further, the remission earned by the petitioner is eleven months and nine days. Thus, as on today, the petitioner has suffered approximately five years and nine months of incarceration. The conduct of the petitioner all this while has been recorded to be satisfactory and no other case is pending against him. In view of the above and the fact that the petitioner seeks to file a Special Leave Petition before the Supreme Court of India and for which purpose he seeks to engage a counsel and also arrange the necessary finances for the same; petitioner undertakes to abide by all the terms and conditions imposed upon him by this Court and further undertakes to surrender before the jail authorities after expiry of the period of parole; and keeping in mind that the purpose of parole is to provide a chance to the convict to reform himself and gel with the mainstream society, petitioner is ordered to be released on parole for a period of six weeks from the date of his release, on his furnishing a personal bond in the sum of Rs.15,000/- with one surety of the like amount to the satisfaction of the trial court. Petitioner is directed to surrender after completion of the period of parole granted.

7. Petition stands disposed of.

September 16, 2009
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G.S. SISTANI, J.