

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(CRL) 748/2010**

Decided on 8.12.2010

IN THE MATTER OF :
KALAWATI

..... Petitioner
Through: Mr. Manoj Sharma and Mr. Sumit
Bhardwaj, Advocates for petitioner

versus

THE LT. GOVERNOR, NCT OF DELHI & ORS. Respondent
Through: Mr. Vikas Pahwa and Mr. Asim for Mr.
Ranjit Kapoor, ASC for the State

CORAM

*** HON'BLE MS.JUSTICE HIMA KOHLI**

- | | |
|--|----|
| 1. Whether Reporters of Local papers may be allowed to see the Judgment? | No |
| 2. To be referred to the Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

HIMA KOHLI, J. (Oral)

1. The present writ petition is filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C praying *inter alia* for grant of parole for a period of 3 months for the purpose of taking care of her aged husband who it is stated, is above 80 years of age, sick and bed-ridden and requires medical care. The petitioner has been sentenced to undergo rigorous imprisonment for life by the Learned ASJ in FIR No. 211/2002 registered at PS Khajoori Khas, under Sections 302/307/498A/34 IPC. The appeal filed by the petitioner against the judgment of the learned ASJ has been dismissed by a Division Bench of this

Court.

2. Counsel for the petitioner states that the order dated 12.11.2009 passed by the Govt. of NCT of Delhi, rejecting the application of the petitioner for grant of parole may be set aside. A perusal of the order of rejection shows that parole has been denied on the grounds that it was found that the address furnished by the petitioner did not belong to her and that no family member of the petitioner was residing at the said address.

3. The nominal roll of the petitioner was called for. As per the said nominal roll against a quantum of sentence of life imprisonment and a fine of Rs.7000/- in default thereof, simple imprisonment for seven months, the petitioner has undergone a sentence of five years, eleven months and twenty four days as on 09.03.2010 and earned remission for one year, one month and fifteen days. Her jail conduct for the past one year is stated to be satisfactory.

4. A status report is filed by the SHO of the area, dated 8.12.2010, which shows that verification of the application of the petitioner was carried out by the police authorities. The residential address of the petitioner at Gagan Vihar, Ghaziabad is found to be correct. The petitioner's husband is residing with two of her sons at this address. It is further stated that the husband of the petitioner is 80 years of age and suffering from a prolonged illness.

5. The learned ASC for the State has argued against the grant of parole to the petitioner on the ground that two sons of the petitioner are residing with her aged husband, who are capable of taking good care of him. Refuting these arguments, the counsel for the petitioner states that the

husband of the petitioner is suffering from a prolonged illness and is on his death-bed, and if the petitioner is not granted parole at this stage, she may not be able to meet him in his last days, hence parole may not be denied to her.

6. Having regard to the submission of the counsel for the petitioner that the petitioner be permitted to take care of her ailing husband who is quite critical and taking into account the fact that parole had been rejected due to non-verification of the address furnished by the petitioner, which has now been verified in the status report filed by the SHO, this court is inclined to grant parole to the petitioner.

7. In this view of the matter, the present petition is allowed. The petitioner is granted parole for a period of one month, subject to the following conditions:-

- (i) The petitioner shall furnish a personal bond in the sum of Rs.10,000/- with one local surety of the like amount, to the satisfaction of the trial court.
- (ii) The petitioner shall report to the SHO of the Police Station of the local area, once a week on every Sunday at 10:00 AM and shall not leave the National Capital Region of Delhi during the period of parole.
- (iii) The petitioner shall furnish a mobile number to the Jail Superintendent on which she can be contacted, if required. After her release, she shall also inform her mobile number to the SHO of the police station concerned.
- (iv) Immediately upon the expiry of period of parole, the petitioner shall

surrender herself before the Jail Superintendent.

- (v) The petitioner shall furnish a copy of the SLP filed in the Supreme Court to the Superintendent Jail at the time of surrendering.
- (vi) The period of parole shall be counted from the day after the date when the petitioner is released from jail.

8. The petition is disposed off.

DASTI.

DECEMBER 8, 2010
pm

(HIMA KOHLI)
JUDGE