

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(CRL) 1117/2010**

Decided on 27.09.2010

IN THE MATTER OF :

JASBIR SINGH @ LILI Petitioner
Through: Ms. Neelam Grover, Advocate

versus

STATE Respondent
Through: Mr. Sanjeev Bhandari, ASC for the State

CORAM

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

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| 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 petition is filed by the petitioner praying *inter alia* for grant of parole for a period of three months to file an appeal before the Supreme Court against the judgment dated 19.2.2010 passed by the Division Bench of this Court and to re-establish social ties with his family members and the society. However, having regard to the limited period of about 7 months 14 days of the unexpired portion of sentence imposed on the petitioner, i.e., period of 10 years, counsel for the petitioner stated on the last date of hearing that the petitioner is not proposing to assail the order on appeal dated 19.2.2010 by filing a SLP and confines the relief in the

present petition for seeking his release on parole only to re-establish social ties with his family members and the society.

2. Counsel for the petitioner states that for the past five years, the petitioner has not approached the Court for grant of parole and that the last time, bail was granted to him in the year 2005. The rejection order dated 21.6.2010 in respect of the petitioner is based on the fact that the victim in the present case committed suicide after the incident and her family members are residing in the vicinity of the petitioner and further that the other co-accused had already applied for parole and as such, the petitioner is not eligible for grant of parole under the new parole guidelines.

3. In the status report filed by the respondent/ State on 16.09.2010, it was stated that the facts mentioned in the petition had been got verified by the Department and it was found that the petitioner has three brothers, all of who are government employees, living in the same village and are able to take care of his family. It was further stated that the family of the victim also resides in the same village and grant of parole to the petitioner may result in resentment and/or a law and order problem.

4. On the last date of hearing, the matter was adjourned to enable the learned ASC to obtain instructions with regard to the orders passed on the parole application of the co-accused, Devender Dabas @ Kala. Learned ASC for the State has obtained instructions today. He submits that vide order dated 06.08.2010 passed in WP(Crl.) 1129/2010, the petition filed by the said co-accused for grant of parole was allowed on the terms and conditions, as mentioned in the said order, copy of which is enclosed with the Status Report dated 23.9.2010. However, the surety had not come to

the jail till date to offer the surety bond and as a result, the said convict is yet to be released. An apprehension is expressed by the learned ASC for the State that in case the petitioner herein and Devender Dabas @ Kala, are released simultaneously, they may abscond. The aforesaid apprehension is however not substantiated with any cogent material placed on the record.

5. Nominal roll of the petitioner has been received from the Jail Superintendent, Tihar. The said Nominal roll reflects that as against a quantum of sentence of 10 years and fine of Rs.25,000/- in default, simple imprisonment of 6 months, the petitioner has already remained incarcerated for a period of 8 years, 6 months and 20 days, as on 14.9.2010. He has earned remission for a period of 9 months and 26 days and his unexpired portion of sentence is 7 months and 14 days. The jail conduct of the petitioner is stated to be satisfactory and there is no other pending case against him.

6. Having regard to the facts and circumstances of the present case, where the petitioner has already undergone sentence for a period of over 8½ years and the unexpired portion of sentence is indicated as 7 months, and considering the fact that nothing adverse has been indicated by the respondent against the petitioner in the present case, merely because the order granting parole to the co-accused Devender Dabas @ Kala in WP(Crl.) 1129/2010 on 06.08.2010 has not been given effect to, cannot be a ground to decline the prayer of parole to the petitioner herein. The Parole Guidelines relied upon by the learned ASC for the State particularly, Guideline No.13 also mentions that special circumstances could exist for grant of parole to a convict. The facts of the present case as set out above,

are adequate to entertain the present petition.

7. Accordingly, the present petition is allowed. The petitioner is granted parole for a period of three weeks on the following terms and conditions:-

- (i) The petitioner shall furnish a personal bond in the sum of Rs.10,000/- with two sureties of the like amount, who shall be his two brothers, who are stated to be government employees, to the satisfaction of the trial court.
- (ii) The petitioner shall mark his presence before the concerned SHO at 10:00 AM on every Monday.
- (iii) The petitioner shall furnish a telephone number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also inform his telephone number to the SHO of the police station concerned.
- (iv) During the period of parole, the petitioner shall remain in the National Capital Territory of Delhi and shall not visit the place of residence of the victim or the area around it.
- (v) Immediately upon the expiry of period of parole, the petitioner shall surrender himself before the Jail Superintendent.
- (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 of.

DASTI.

SEPTEMBER 27, 2010
rkb

(HIMA KOHLI)
JUDGE