

#10

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

Date of decision: 11.08.2015

+ W.P.(CRL) 1438/2015

MUKHTIYAR SINGH @ BABLOO Petitioner

Through Mr. Puneet Singhal, Advocate

versus

STATE Respondent

Through Mr. Ashish Aggarwal, ASC (Crl.)

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking release of the petitioner on parole for three months in order to enable him to file a Special Leave Petition (SLP); to arrange funds for the same; and to re-connect social ties with the family and society.

2. The petitioner is aggrieved by the order dated 15th June, 2015 whereby his application for grant of parole on the afore-stated grounds has been rejected by the Competent Authority of the respondent on the ground of “adverse police report from police authority Delhi which stated that there is possibility that convict may jump the parole and get involved in Narcotics

cases. The grounds given by accused for obtaining parole are not very sound. Requisite police report from concerned police authority i.e. SSP, Distt. Kaithal, Haryana, SHO, PS Chika, Distt. Kaithal, Haryana which could not be obtained despite request. The convict, if desires, can file SLP from jail itself where free legal aid is available to prisoners.”

3. A perusal of the nominal roll *qua* the petitioner reveals that the petitioner has already undergone incarceration for a period of seven years and eleven months approximately out of the total sentence of twelve years imposed on him. The conduct of the petitioner for the last one year in jail has been satisfactory.

4. The grounds inter alia stated in the impugned order dated 15th June, 2015 for rejecting the petitioner’s representation for parole are not supported by any cogent material and are not only in the teeth of decisions of this court but also violative of the constitutional right of the petitioner to prosecute an appeal before a higher court.

5. It is trite to state that there are number of judicial pronouncements in which it has been held that the petitioner is entitled to parole in order to prosecute proceedings before a higher court.

6. In the circumstances, since the petitioner wants to assail the judgment and order dated 3rd July, 2014, whereby his appeal being CrI.A.No. 49/2011 has been partly rejected by this Court, by preferring an SLP against the said judgment and order, the petitioner is enlarged on parole for the period of one month from the date of his release subject to his furnishing personal bond in the sum of Rs.5,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent, Tihar. During the period the petitioner remains out on parole, he shall report to the SHO, Police Station-District Kaithal, Haryana, once a week on every Thursday. The petitioner shall also furnish his mobile telephone number which he undertakes to keep operational to the Superintendent, Central Jail, Tihar. The petitioner shall surrender immediately on the expiry of the period of parole before the jail authorities.

7. The writ petition is allowed with the above said directions.

8. A copy of this order be sent to the Jail Superintendent, Tihar for compliance and communication to the petitioner.

SIDDHARTH MRIDUL, J

AUGUST 11, 2015

sd