

#18

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.09.2015

W.P.(CRL) 1503/2015

RANVIR

..... Petitioner

Through: Mr. Ajay Verma and Ms. Srishti
Banerjee, Advocates
versus

STATE

..... Respondent

Through: Ms. Richa Kapoor, ASC (Criminal)
with Mr. Ashish Negi and Mr. Rohit
Kapoor, Advocates and SI Yogesh
Kumar, PS- Bhajanpura, Delhi

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 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') praying for a direction to the respondent to release the petitioner on parole for a period of three months.

2. When the petition came up for hearing on 31.07.2015 before this Court, I perused the nominal roll qua the petitioner. The nominal roll revealed that the petitioner is 29 years of age and had been sentenced for life imprisonment upon conviction for offences under sections

394/397/302/411/34 IPC committed on 16.04.2004. The petitioner has already undergone more than 11 years' incarceration without remission.

3. At that juncture, I had asked Ms. Richa Kapoor, learned Additional Standing Counsel (Criminal) to ascertain the age of the petitioner at the time of the commission of the offence for which he had been convicted. Ms. Kapoor, learned Additional Standing Counsel (Criminal) did what is expected from every counsel on behalf of the State. After conducting an enquiry, Ms. Richa Kapoor, learned Additional Standing Counsel (Criminal) filed in Court a copy of the certificate dated 08.09.2015 issued by Kanhaiya Public Secondary School, West Karawal Nagar, Delhi qua the date of birth of the petitioner. Along with the said certificate is a copy of the Admission Form dated 14.04.1993, filled in by the father of the petitioner at the time of taking admission, supported by an affidavit of the father of the petitioner.

4. A perusal of the said documents reveals that the petitioner's date of birth is 06.05.1986. The said documents have been duly verified by the State and found to be correct. Therefore, admittedly on the date of commission of the offence, the petitioner was 17 years 11 months and 10 days old.

5. On 16.09.2015 when the matter came up for hearing, I had asked learned counsel appearing on behalf of the petitioner, whether they would

like to move an application under section 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000 in this behalf. Mr. Verma, learned counsel appearing on behalf of the petitioner has handed over in Court today the said application duly supported by an affidavit. The same is taken on record. The Registry is directed to number it.

6. In a nutshell, the application states that the petitioner could not have been sentenced for the commission of the said offence as he was a juvenile on the date of the commission of the offence.

7. In the present case, it is observed that it is an admitted position that the petitioner was born on 06.05.1986. It is also observed that the petitioner has been convicted and sentenced, as aforesaid, for the commission of an offence committed by him on 16.04.2004. Therefore, the petitioner was a juvenile at the time when he is stated to have committed the offence. In my view, he can never be compensated for the more than 11 years of incarceration that he has undergone.

8. In view of the aforesaid circumstances and the landmark decision of the Hon'ble Supreme Court in *Jitendra Singh vs. State of U.P.* reported as (2013) 11 SCC 193, the conviction imposed by the trial court on the

petitioner is sustained while setting aside and quashing the sentence awarded to him.

9. The matter is remitted to the Juvenile Justice Board for further proceedings in accordance with law.

10. The trial court is directed to transmit the papers, proceedings, evidence and all record pertaining to the subject trial to the concerned Juvenile Justice Board as expeditiously as possible.

11. The State is directed to produce the petitioner before the Juvenile Justice Board on 24.09.2015 at 11.00 A.M.

12. Before parting, I would like to state that the petitioner shall owe a debt of gratitude to Ms. Richa Kapoor, learned Additional Standing Counsel (Criminal) appearing on behalf of the State for her prompt assistance in the present petition.

13. The present writ petition is disposed of accordingly.

14. A copy of this order be given *dasti* to counsel for the parties under signature of the Court Master. A copy of this order be sent to the Superintendent, Central Jail, Tihar for necessary information and compliance.

SIDDHARTH MRIDUL, J

SEPTEMBER 18, 2015/dn