

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 03.08.2015

W.P.(CRL) 1603/2015

JAI KISHORE

..... Petitioner

Through: None

versus

STATE

..... Respondent

Through: Mr. Sanjay Lao, ASC (Criminal)

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 praying for release of the petitioner on parole in order to enable him to prefer an SLP before the Supreme Court.
2. The petitioner is aggrieved by the order dated 03.06.2015 whereby his application for grant of parole on the above mentioned ground was rejected by the competent authority for the following reasons:-

- “(i) As per para 11.1 of Parole/Furlough Guidelines, 2010 which provides that “a convict must have served at least one year in prison excluding any period covered by remission” and the convict has not served the desired period as on date after conviction.
- (ii) Adverse police report that the grounds taken do not seem to be genuine, as the brother of the convict is able to fulfil the financial needs for filing the SLP. There may be

adverse impact on law & order and security problem on account of release of convict. Police has apprehension that convict may jump the parole and commit similar offence.”

3. A perusal of the rejection order dated 03.06.2015 reveals that there is no cogent material based on which it has been stated that the grounds taken by the petitioner in his application for grant of parole are not genuine or that his release will adversely impact law and order and security in the area. Furthermore, insofar as the other ground of convict having served one year excluding any period covered by remission is required under Para 11.1 of Parole/Furlough Guidelines: 2010 is concerned, the same are merely guidelines and cannot be applied blindly in every case.

4. In the present case it is noticed that the petitioner has been sentenced for seven years rigorous imprisonment under Section 304-II IPC and has already undergone incarceration for a period of more than five years. The conduct of the petitioner has been satisfactory in jail.

5. It is trite to say 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 dated 15.12.2014 whereby his appeal being Crl.A. No.1271/2014 was dismissed, by preferring an SLP against the said judgment and order, the petitioner is enlarged on parole for a 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. During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Shahbad Dairy, Delhi, once a week on every Thursday. The petitioner shall also provide the SHO with his active and operational mobile number. The petitioner shall not leave the National Capital Territory of Delhi without prior permission of this court. The petitioner shall surrender at the expiry of the period of parole before the jail authorities.

7. The writ petition is disposed of accordingly.

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

SIDDHARTH MRIDUL, J

AUGUST 03, 2015
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