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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 21.08.2015

+ **W.P.(CRL) 1801/2015**

RAM NIWAS KAUSHIK Petitioner
Through Mr. Anurag Jain, Advocate

versus

STATE (GOVT OF NCT OF DELHI) Respondent
Through Ms. Kamna Vohra, ASC (Crl.)
SI Jitendra Kumar, P.S. Anand Parbat

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 12052/2015 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(CRL) 1801/2015

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C., 1973 seeking release of the petitioner on parole for one month on the grounds of filing an SLP before the Supreme Court of India; and to re-connect social ties with the family and society.

2. The petitioner is aggrieved by the order dated 12th August, 2015 whereby his application for grant of parole on *inter alia* the above mentioned grounds was rejected for the following reasons:-

“(i) The convict is not entitled for parole 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 convict has served only 01 month and 29 days of sentence after conviction.

(ii) Adverse police report that the taken grounds do not seem to be genuine. There may be possibility of law and order and the security problem in the area on account of the proposed release on parole. There will be negative impact on the victim party/witness of the case. As per police report, the threat to the life of convict during the parole cannot be ruled out.

Further, the convict if desires, can file SLP from jail itself, where free legal aid is available to Prisoners.

The convict may be informed accordingly.”

3. Ms. Kamna Vohra, learned Additional Standing Counsel (Criminal) appearing on advance notice has tendered a status report. The same is taken on record.

4. A perusal of the status report reveals that the petitioner was found guilty for the offences under Sections 325/342/34 IPC and released on probation subject to payment of compensation of Rs. 1,50,000/- to the complainant and keeping peace and good behaviour for a period of two years with direction to mark their presence at Police Station Anand Parbat on the first day of each month during the period of probation of two years.

5. A further perusal of the status report reveals that the complainant preferred an appeal against the said order passed by the trial Court which was dismissed by this Court. However, the Supreme Court in the special leave petition preferred by the complainant assailing the order passed by this Court allowed the special leave petition and remitted the case back to this Court with the directions to reconsider the same in accordance with law.

6. Consequently, this Court has enhanced the sentence of the petitioner along with two others co-accused to rigorous imprisonment for a period of two years.

7. The annexure to the status report shows the previous involvements of the petitioner. The same is reproduced as follows:-

Sl. No.	FIR No.	Date	Under Section	Police Station	Present position
1.	128/88	04/10/1988	342/451/506/34 IPC	Anand Parbat	Acquitted
2.	168/88	12/04/1988	452/308/34 IPC	Anand Parbat	Convicted
3.	73/89	14/04/1989	504/506/323/34 IPC	Anand Parbat	Acquitted
4.	212/92	24/09/1992	147/148/149/336/29 5 IPC	Anand Parbat	Acquitted
5.	210/96	24/07/1996	7/10/55 EC Act	Anand Parbat	Acquitted
6.	78/08	06/06/2008	147/148/149/323/43 5 IPC	Anand Parbat	Quashed
7.	145/08	05/10/2008	308 IPC	Anand Parbat	Convicted
8.	199/08	18/12/2008	323/354/509/34 IPC	Anand Parbat	Cancelled
9.	05/09	30/01/2009	452/324/506/34 IPC	Anand Parbat	Cancelled

8. A perusal of the chart tabulated above shows that the petitioner had 9 previous involvements out of which he has been convicted in two of them namely FIR No. 168/1988 under Sections 452/308/34 IPC and 145/2008 under Section 308 IPC. All the previous involvements have been registered in the Anand Parbat Police Station.

9. The involvements, it is noticed, span from the year 1988 onwards to the year 2009.

10. In the present case, it is observed that the petitioner has undergone incarceration for a period of two months only out of the total sentence of two years rigorous imprisonment imposed on him by this Court.

11. In these circumstances, the apprehension of the competent authority that the release of the petitioner may cause a law and order and security problem in the area and will have a negative impact on the complainant/witnesses of the subject case, does not appear to be unfounded.

12. In view of the above, the present petition is devoid of merit and the same is hereby dismissed.

SIDDHARTH MRIDUL, J

AUGUST 21, 2015/sd