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

+ W.P.(CRL) 2470/2015

SUDHIR KAUSHIK

..... Petitioner

Through: Mr.Tarun Khanna, Advocate.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Sanjay Lao, ASC.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **16.11.2015**

The competent authority refused the prayer of the petitioner for being released on parole by order dated 15.09.2015. The petitioner had applied for parole for preferring an SLP against the judgment and order of conviction as also for reconnecting social ties.

The petitioner has been convicted and sentenced for two years. Out of the aforesaid period, the petitioner has remained in jail for a little more than two months by now. The impugned order reflects that the main ground for rejecting the prayer for grant of parole is that he has not remained in jail for a minimum period of one year for availing the aforesaid concession.

Times without number, this Court has taken note of the fact that the right to avail the legal remedy is a statutory right which could not be denied to any convict. It has been stated on behalf of the petitioner that the SLP against the judgment and order of conviction has yet not been filed.

True it is that free legal aid is available in prison and the petitioner could file his SLP from the jail itself. However, for the right of legal remedy to be effective and meaningful, any convict would require to have a lawyer of his choice. The “adverse police report”, one of the reasons stated in the order of rejection of parole, is without any objective finding and report.

Considering the fact that the conduct of the petitioner in jail even though for a short while, is satisfactory and that the petitioner is required to prefer SLP against the judgment and order of conviction, this Court is inclined to release the petitioner on parole for that particular purpose.

Let the petitioner be released on parole for a period of 15 days from the date of his release, subject to the petitioner furnishing a bond in the sum of Rs.5,000/- with two sureties of the like amount, one such surety to be his family member to the satisfaction of the trial Court, subject to the following conditions:-

- a) The petitioner shall surrender before the jail authorities on or before the expiry of the said period of parole.
- b) The petitioner shall not engage himself in any unlawful activity.
- c) If the petitioner is required to go out of the territory of Delhi, he would intimate about his visit to the SHO of the concerned police station.
- d) He shall furnish his mobile telephone number and the mobile telephone number of the surety to the SHO of the concerned police station so that in case of necessity he could be tracked and his whereabouts could be ascertained.

In case, the petitioner flouts any one of the conditions, an application could be moved by the SHO for cancellation of his parole and for taking of

the coercive steps for securing his attendance.

With these observations, the petition is disposed of.

A copy of this order be communicated to the Superintendent of the concerned Jail for information and compliance.

A copy of this order be given dasti under the signature of Court Master.

ASHUTOSH KUMAR, J

NOVEMBER 16, 2015

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