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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.12.2015

W.P.(CRL) 2861/2015

ARUN

..... Petitioner

Through: Ms. Aarohi Holani and Mr.
Mohammad Faraz, Advocate

versus

STATE

..... Respondent

Through: Ms. Richa Kapoor, ASC (Criminal)
with Mr. Rohit Kaul and Mr. Ashish
Negi, Advocates and SI Sanjeev
Kumar, PS- Kalkaji

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 a direction to the official respondent to release the petitioner on parole in order to enable him to prefer an SLP before the Hon'ble Supreme Court of India.

2. The petitioner is aggrieved by the order dated 30.10.2015 whereby his application for parole on the above ground was rejected by the Competent Authority for the following reasons:-

“..... **rejected** in view of the following:-

- (i) As per the extant guidelines, para 12.5 of Parole/Furlough Guidelines 2010 specifies that “parole would ordinarily be not granted except, if in the discretion of the Competent Authority special circumstance exist for grant of parole” (c) If prisoner is a convict for multiple murders, as the convict has committed murder of his sister-in-law and mother-in-law.
- (ii) Adverse police report which stated that the taken grounds are not seems to be genuine. The convict has killed his sister-in-law and mother-in-law. Apprehension of breach of law and order cannot be ruled out. Complainant being resident of same locality.
- (iii) Further, the convict if desires, can file SLP from jail itself, where free Legal Aid is available to Prisoners.”

3. A perusal of the rejection order dated 30.10.2015 reveals that insofar as the first reason is concerned, it cannot be countenanced in view of the legal position that the guidelines are merely guidelines and cannot be applied blindly in every case. Insofar as, the second reason is concerned, there cannot be any apprehension in view of the circumstance that the wife of the petitioner and the brother-in-law of the petitioner, whose sibling and mother were murdered by the petitioner herein, have appeared in Court and are willing to stand surety for him.

4. A perusal of the nominal roll qua the petitioner reveals that the petitioner has already undergone seven years’ incarceration out of the total

sentence of life imprisonment awarded to him by the trial Court. The conduct of the petitioner in jail has been satisfactory from the very inception of his incarceration.

5. It is trite to say that there are number of judicial pronouncements in which it has been held that it is the constitutional right of every convict to be released on parole in order to prosecute proceedings before a higher court.

6. In the circumstances, since the petitioner wants to assail the judgment dated 17.07.2015, whereby his appeal being CRL.A.No.328/2012 was disposed of by this Court while modifying the sentence to the extent that the petitioner would not be considered for remission till 25 years of incarceration, by preferring an SLP against the said judgment and order, the petitioner is enlarged on parole for a period of four weeks from the date of his release subject to his furnishing a personal bond in the sum of Rs.5,000/- (Rupees Five Thousand) with two sureties each (to be provided by the petitioner's wife and the brother-in-law) of the like amount to the satisfaction of the Jail Superintendent, Tihar subject to the following conditions:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Kalkaji, Delhi, once a week on every Tuesday.
- (ii) The petitioner shall also provide the SHO, Police

Station- Kalkaji, Delhi with his mobile telephone number which he undertakes to keep operational.

(iii) The petitioner shall not leave the National Capital Territory of Delhi during the period of parole, without the prior permission of this Court.

(iv) The petitioner is directed to surrender before the jail authorities at the expiry of the period of parole.

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 communication of the same to the petitioner.

SIDDHARTH MRIDUL, J

DECEMBER 18, 2015

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