

#36

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 16.12.2015

W.P.(CRL) 2968/2015

SHAMBHU NATH

..... Petitioner

Through: Ms. Sunita Arora, Advocate for Mr.
Krishan Kumar, Advocate

versus

STATE

..... Respondent

Through: Mr. R.S. Kundu, ASC (Criminal) with
Ms. Garima Singh, Advocate

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 as well as for maintaining social ties with family and society.
2. The petitioner is aggrieved by the order dated 04.11.2015 whereby his application for parole on the above ground was rejected by the Competent Authority for the following reasons:-

“..... **rejected** in the absence of police verification report from SSP, District Motihari, Bihar, which could not be obtained despite several request of Prison Department. As per police authority report, the Addl. DCP/North states that ground taken for parole are not seems to be genuine & convict may jump the parole.

The convict, if desire so, can file SLP from the jail itself, where free legal aid is available to the convicts.”

3. The reasons stated by the Competent Authority in the impugned order dated 04.11.2015 whilst rejecting the petitioner’s representation for grant of parole are specious, without any material and contrary to the circumstances that the petitioner was released on interim bail by this Court w.e.f. 07.04.2014 to 22.04.2014 and is not stated to have misused the liberty granted to him.

4. A status report has been filed on behalf of the official respondent. The same is taken on record.

5. A perusal of the nominal roll qua the petitioner reveals that the petitioner has already undergone four years and three months incarceration out of the total sentence of ten years awarded to him by this Court. The conduct of the petitioner in jail has been satisfactory since the inception of his incarceration.

6. It is trite to say that there are number of judicial pronouncements in which it has been held that a person in long incarceration is entitled to be released on parole for a month in a year to re-establish social ties and for physical and mental well being. Further, it is the constitutional right of every convict to be released on parole in order to prosecute proceedings before a higher court.

7. In the circumstances, since the petitioner wants to assail the judgment dated 10.08.2015, whereby his appeal being CRL.A.No.02/2013 was dismissed, by preferring an SLP against the said judgment and order, the petitioner is enlarged on parole for the 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 one surety 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- Kashmere Gate, Delhi, Delhi, once a week on every Friday.
- (ii) The petitioner shall also provide the SHO, Police Station- Kashmere Gate, 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.

8. The writ petition is disposed of accordingly.

9. 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 16, 2015

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