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

+ W.P.(CRL) 229/2016 and CrI. MA No. 1233/2016

SHESH BAHADUR PANDEY Petitioner
Through Ms. Neha Kapoor, Advocate

versus

STATE OF THE NCT OF DELHI Respondent
Through Mr. Ashish Aggarwal, ASC (CrI.) with
Mr. Piyush Singhal, Advocate
SI Alok Rajan, PS Sarai Rohilla

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% **01.03.2016**

The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 praying for a direction to the competent authority to release the petitioner on parole in order to enable him to arrange new accommodation at ground floor by selling his house situated at 3rd floor as the mother of the petitioner is suffering from arthritis and other age-related ailments and is facing difficulties in her daily routine life; and to re-establish social ties with family members and society.

The petitioner is aggrieved by the order dated 9th December, 2015 whereby his application for grant of parole on the above-stated grounds was rejected by the competent authority for the following reasons:-

“**rejected** in view of adverse police report which states that there is every likelihood that release of convict on parole may breach tranquillity and disturb the law and order in the area in view of forthcoming festival season. The release of the convict will disturb the family members of the victim and a fear will be created. There is every likelihood to jumping the parole by the convict as family of the convict is not having any control over him.

Convict is previously involved in 14 criminal cases and 01 case is pending trial. The convict is a habitual offender. Previously, convict was involved in unlawful activities. There is every possibility to jump the parole and indulge in same type of crime.

Further, the convict has last availed 01 month parole upto 18.04.2015 by the order of DHC and thereafter he has availed 02 weeks furlough upto 09.09.2015 by the order of DG(P).”

The reasons ascribed by the competent authority whilst rejecting the petitioner’s representation for parole are belied by a perusal of the nominal roll qua the petitioner, which reveals that he was convicted only in FIR No. 214/2004, under Sections 12/09/55 of the Arms Act registered at Police Station-Ashok Vihar, Delhi, which sentence has already been undergone by the petitioner herein. The reasons in the order impugned herein are also contrary to the circumstance that the petitioner has been enlarged on furlough earlier on numerous occasions and is not stated to have misused the liberty granted to him.

A perusal of the nominal roll further reveals that the petitioner has already undergone incarceration for over 9 years out of the total sentence of life imprisonment awarded to him. The overall jail conduct of the petitioner has been satisfactory since the inception of his incarceration.

It is trite to state that a person in long incarceration is entitled to parole in order to re-establish social and family ties and for his mental and physical well-being.

In view of the foregoing, I see no impediment in allowing the present writ petition.

Consequently, the petitioner is enlarged on parole for a period of four weeks from the date of his release on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Ashok Vihar, once a week on every Friday.
- (ii) The petitioner shall also provide the SHO of the concerned police station with his mobile telephone number which he undertakes to keep operational.
- (iii) He shall not leave the jurisdiction of the NCT of Delhi without the prior permission of this Court.
- (iv) Lastly, the petitioner shall surrender before the jail authorities at the expiry of the period of parole.

With the above said directions, the writ petition is allowed and disposed of accordingly.

A copy of this order be sent to the Jail Superintendent for necessary information and compliance.

Dasti.

SIDDHARTH MRIDUL, J

MARCH 01, 2016/sd