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

Date of decision: 10.05.2016

+ **W.P.(CRL) 364/2016**

DEEPAK

..... Petitioner

Through Mr. Ankur Sood, Advocate

versus

STATE

..... Respondent

Through Mr. Rajesh Mahajan, ASC (Crl.) with
Ms. Parul Jamwal, Advocate
SI Kulbir Singh, PS Kirti Nagar

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 read with Section 482 of the Code of Criminal Procedure, 1973 seeking a direction of mandamus to the competent authority to release the petitioner on parole in order to enable him "to re-establish social ties with the family members and society and proper treatment of his wife who is suffering from infertility".

2. At the outset, Mr. Ankur Sood, learned counsel appearing on behalf of the petitioner fairly states that the petitioner herein prays for a direction to the competent authority to be released on parole so as to enable him to renew

and re-establish social and family ties, particularly in view of the circumstance that his wife needs to undergo infertility treatment.

3. The petitioner is aggrieved by the order dated 12th January, 2016 whereby his representation 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 convict may breach the peace of the area. There should be an adverse impact on the victim party. There is every possibility of jumping the parole by the convict. The possibility of committing the crime could not be denied. Convict is a habitual offender.

Further, as per nominal roll, the convict has last availed parole w.e.f 04.03.2015 to 01.04.2015. grounds taken for parole i.e. treatment for infertility does not come under the serious illness category. Convict has been convicted in 03 more cases.”

4. The reasons ascribed by the competent authority in the order impugned herein are contradictory and cannot be sustained. On the one hand, it has been asserted that the petitioner may jump parole and commit a crime since he is a habitual offender as reported by the concerned police station; on the other, it is asserted that the petitioner was released on parole

in the year 2015 without stating that he misused the liberty granted to him on that occasion.

5. Even otherwise, a perusal of the nominal roll *qua* the petitioner reveals that the petitioner has already undergone incarceration for more than three years and four months out of the total sentence of five years without remission; and his overall jail conduct has been satisfactory since the inception of his incarceration except the punishment dated 2nd September, 2015 for unspecified reasons.

6. In the present case, it is observed that the petitioner has been released on parole on a number of occasions in the past and is not stated to have misused the liberty granted to him.

7. 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.

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

9. 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.5,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions that:-

- (i) The applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court.
- (ii) The applicant shall report to the SHO, Police Station- Kirti Nagar, Delhi, once a week on every Friday during the period of parole.
- (iii) The petitioner shall provide his mobile telephone number to the concerned SHO, which he undertakes to keep operational.
- (iv) The petitioner shall surrender at the expiry of the period of parole before the jail authorities.

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

11. A copy of this order be sent to the Jail Superintendent for compliance and to be communicated to the petitioner.

MAY 10, 2016
sd

SIDDHARTH MRIDUL, J