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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 08.02.2016

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Pronounced on: 15.02.2016

+ LPA 87/2016

AJAY SINGH CHAUTALA

..... Appellant

Through

Mr. R.K. Anand, Mr. Amit Sahni
& Mr. Dhruv Sheoram, Advocates

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through

Mr. Rahul Mehra, Standing
Counsel (Civil) with Mr. Aditya
Swarup Agarwal, Advocate for the
GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JUDGMENT

JAYANT NATH, J.

1. The present appeal is filed seeking to impugn the order dated 01.02.2016 passed by the learned Single Judge in W.P.(CrI.) No.2759/2015. The impugned order notes that the petition of the appellant for releasing him on parole is adjourned to 04.04.2016 on the submissions of the learned Senior Counsel appearing for the appellant that the petition filed by the father of the appellant Sh. Om Prakash Chautala seeking parole may be considered at this stage by the court and the petition filed by the appellant may be adjourned. This submission was made by the appellant in view of Clause 13 of the Parole/Furlough

Guidelines- 2010 (*hereinafter referred to as the '2010 Guidelines'*) issued by the respondent which states that where more than one convict in a case are lodged in the same prison, co-accused convicts would not be released on parole simultaneously except on special circumstances.

2. The appellant was convicted vide judgment of conviction dated 16.01.2013 and the order on sentence dated 22.01.2013, passed by the trial court in the case titled '*CBI v. Vidyadhar & Ors.*, for offences punishable under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act and under Section 120-B read with Sections 418/467/471 IPC. The appellant has been sentenced to undergo R.I. for 10 years and a fine in the sum of Rs.1000.00 and in default of payment of fine, to further undergo S.I. for 6 months.

3. The appeals filed by the appellant before this Court and the Supreme Court were also dismissed upholding the sentence imposed by the trial court on 05.03.2015 and 03.08.2015, respectively.

4. The appellant applied for parole for four months to the respondent on the grounds of medical conditions and to maintain social ties. The respondent on 16.11.2015 rejected the application of the appellant. Hence, the present writ petition was filed.

5. In the meantime, during pendency of the main writ petition, the appellant filed a CrI.M.A. No.950/2016 stating additional grounds/ circumstances for grant of parole. It was urged in the application that there were two marriages in the family, namely, first marriage was of Ms. Vidisha- (D/o Mrs.Manju, D/o late Sh. Pratap Chautala, uncle of the appellant, real brother of Sh. Om Prakash Chautala) which is to be solemnized on 17.02.2016 and the second marriage was of Sh. Kunal

Karan, S/o Mrs. Anjali, sister of the appellant which is to be solemnized on 25.02.2016.

6. The father of the appellant Sh. Om Prakash Chautala had also moved a similar application in his petition seeking parole for the said two marriages.

7. When the matter came up for hearing on 01.02.2016, in view of the '*2010 Guidelines*' issued by the respondent, i.e. clause 13 which states that if there are more than one convicts in a case, who are lodged in the same prison, the co-accused convict cannot be released simultaneously, option was given to the appellant and his father Sh. Om Prakash Chautala as to which of the petitions they want to press first. The learned Senior Counsel appearing for the appellant, on instructions, stated that the writ petition of his father, Sh. Om Prakash Chautala may be considered at this stage and the writ petition of the appellant may be adjourned. In view of the said submission of the appellant, his writ petition was adjourned to 04.04.2016. The writ petition of Sh. Om Prakash Chautala was taken up for hearing and he was granted parole for a period of four weeks from the date of his release by the court vide separate order.

8. Aggrieved by the order adjourning his case, the appellant has filed the present appeal. We have heard the learned counsel for the parties and have gone through the records.

9. Mr. R.K. Anand, the learned counsel for the appellant has stressed that the '*2010 Guidelines*' permits grant of parole to co-accused convict simultaneously in special circumstances. There is no absolute bar. The appellant has to attend the weddings in question and in these circumstances he ought to have been granted parole.

10. We may first see the '*2010 Guidelines*'. The respondent had pursuant to the directions issued by this Court in W.P.(Crl.) 1121/2009 (Court On Its Own Motion v. State), issued the said 2010 Guidelines. They were issued in consultation with the Delhi Legal Services Aurhotiry. The relevant clause of the '*2010 Guidelines*' reads as follows:

“13. If there are more than one convicts in a case who are lodged in the same prison, the co-accused convicts would not be released simultaneously except upon special circumstances to be mentioned in the order granting parole.”

11. Some relevant facts may be noted. The appellant was on interim bail from 12.08.2013 till the conviction was upheld by the High Court vide order dated 05.03.2015. The appellant first applied for parole on 06.04.2015. The respondent rejected the application on 08.05.2015 as the appellant had served only 8 months and 4 days out of the 10 years of R.I. As per the '*2010 Guidelines*', the convict for being granted parole must have served for a period of atleast one year in prison.

12. A second application was filed for parole on 02.09.2015. It was rejected vide order dated 16.11.2015. The order reads as follows:

“With reference to your office letter No.F.2/SCJ-2/CJ-8/Parole/2015/3554 dated 12.10.2015 on the above subject, I am directed to convey that the request in respect of convict for grant of parole on the ground “to maintain social ties” has been considered by the Hon’ble Lt. Governor, NCT of Delhi, the Competent Authrotity in the matter & rejected. The Competent

Authority has observed the fact that the convict has just undergone one year and two months of imprisonment out of which for the last seven months, i.e. from 05.03.2015, he has been admitted in the Medanta Medicity Hospital, Gurgaon. Moreover, the convict has been on interim bail from 13.08.2013 to 03.03.2015.”

13. It is in this background that the appellant filed the writ petition for quashing the order dated 16.11.2015 rejecting his application for parole.

14. The appellant in view of the said Guidelines, sought an adjournment so that the petition of his father Sh. Om Prakash Chautala be taken up on that date. Sh. Om Prakash Chautala was granted parole on the said date. It was open to the appellant to contend before the learned Single Judge that special circumstances exist in his case and that he alongwith his father Sh. Om Prakash Chautala should be granted parole simultaneously. No such plea was taken and instead a concession was made before the learned Single Judge. The appellant cannot now be permitted to turn around and insist that his petition for parole be also considered simultaneously with that of his father.

15. Even otherwise in our opinion, the case of the appellant and his father Sh. Om Prakash Chautala are materially different as the granddaughter of Sh. Om Prakash Chautala is getting married.

16. For the issue of grant of parole on the original grounds, i.e. medical condition and to maintain social ties, the matter is to be taken up on 04.04.2016, i.e, the date to which the petition filed by the appellant stands adjourned.

17. We see no reason to interfere with the impugned order passed by the learned Single Judge. The appeal is dismissed.

(JAYANT NATH)
JUDGE

(CHIEF JUSTICE)

FEBRUARY 15, 2016

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