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

Date of decision: 29.02.2016

+ W.P. (CRL.) 674/2016

RAJEEV @ BOBBY Petitioner

Through Mr. Puneet Singhal, Advocate

versus

STATE Respondent

Through Mr. Sanjay Lao, ASC (Crl.)
SI Prakash Chand, PS Lodhi Colony

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 praying for a direction to the official respondent to release the petitioner on parole for three months in order to enable him to institute a Special Leave Petition (SLP) before the Hon'ble Supreme Court of India; to arrange funds for the same; and to re-connect social ties with the family and society.

2. The petitioner is aggrieved by the order dated 25th January, 2016 whereby his representation for parole on the above grounds was rejected by the competent authority for the following reasons:-

- “(i) The convict is not entitled for parole in view of Para 11.1 of Parole/Furlough Guidelines: 2010 which provides that “a convict must have served at least one year in prison excluding any period covered by remission” and the convict has served only 02 months & 02 days incarceration after conviction.
- (ii) Adverse police report which states that the grounds do not seem to be genuine. There will be bad impact on the law and order. There may be threat to the victim party/witnesses. The possibility of jumping the parole and getting involved in another criminal case cannot be ruled out.

Further, the convict, if desires, can file SLP from jail itself, where free legal aid is available to prisoners.”

3. Insofar as the second reason stated by the competent authority in the order impugned herein is concerned, it has been brought to my notice that subsequent thereto, the requisite police verification has been carried out. Insofar as the first reason i.e. Para 11.1 of Parole/Furlough Guidelines: 2010 is concerned, the same are merely guidelines and cannot be applied blindly in every case.

4. In the present case, it is observed that the competent authority has completely overlooked the circumstance that the petitioner was acquitted by

the trial Court and has been convicted and sentenced in appeal preferred by the State.

5. A perusal of the nominal roll *qua* the petitioner reveals that the conduct of the petitioner for the last one year in jail has been satisfactory.

6. The only submission made on behalf of Mr. Sanjay Lao, learned Addl. Standing Counsel (Crl.) appearing on behalf of the official respondent is that in the event the present petition is allowed, the petitioner as well as co-accused namely Lokesh, who has been directed to be enlarged on parole by this Court in Writ Petition (Criminal) No. 672/2016 by way of a separate order dated 29th February, 2016, would be at liberty contemporaneously, which is impermissible under the Guidelines.

7. 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.

8. In view of the foregoing, I see no impediment in allowing the present writ petition. However, in view of the submission made by Mr. Sanjay Lao, learned Addl. Standing Counsel (Crl.) as afore-stated, the present petitioner shall be released on parole once the co-accused namely Lokesh, the

petitioner in Writ Petition (Criminal) 672/2016 surrenders before the jail authorities at the expiry of his period of parole.

9. In the circumstances, since the petitioner wants to assail the judgment and order dated 24th September, 2015, whereby his appeal being Crl. Appeal No. 371/1998 has been rejected by this Court, by preferring an SLP against the said judgment and order, the petitioner is directed to be released on parole for a period of four weeks from the date of his release i.e. subsequent to the date on which the co-accused surrenders before the jail authorities as afore-stated, subject to his furnishing a personal bond in the sum of Rs.5,000/- (Rupees Five Thousand Only) with one surety of the like amount to the satisfaction of the Superintendent, Central Jail, Tihar subject to the following conditions:-

- (i) That during the period the petitioner remains out on parole, he shall report to the SHO, Police Station-Lodhi Colony, Delhi, once a week on every Friday.
- (ii) The petitioner shall provide the Superintendent, Central Jail, Tihar 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.

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

11. A copy of this order be sent to the Superintendent, Central Jail, Tihar for necessary compliance and communication of the same to the petitioner.

FEBRUARY 29, 2016
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SIDDHARTH MRIDUL, J

