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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 09.03.2016

+ W.P. (CRL.) 764/2016

KAUSHAL KUMAR @ BABLOO Petitioner
Through Ms. Inderjeet Sidhu and Ms. Divya
Chugh, Advocates

versus

STATE Respondent
Through Mr. Ananya Mohan for Mr. Avi
Singh, Addl. Standing Counsel (Crl.)
SI Mutya Khan, PS Preet Vihar

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 competent authority to release the petitioner on parole in order to enable him to attend to his ailing father and arrange finances for the latter to undergo a heart surgery.

2. The petitioner is aggrieved by the order dated 1st February, 2016 whereby his application for grant of parole on the above-stated grounds was rejected by the competent authority for the following reasons:-

“(i) The convict is not eligible for parole in view of para 11.5 of Parole/Furlough Guidelines 2010 “a minimum of six months ought to have elapsed from the date of termination of the previous parole”, as the convict has last availed 01 month parole upto 14.10.2015 by the order of DHC.

(ii) Adverse police report which states that there may be possibility of convict to disturb the law and order in the society. There will be adverse impact on the victim party/witnesses and strong possibility of convict to commit the similar offence. The convict may jump the parole, if granted.

Further, the convict has last availed 02 weeks furlough w.e.f. 05.06.2015 to 20.06.2015 by the order of DG (P) and 01 month w.e.f. 07.08.15 to 14.09.15 by the order of DHC and extended upto 14.10.15.”

3. The reasons ascribed by the competent authority whilst rejecting the petitioner’s representation for parole do not inspire confidence.

4. Insofar as the first reason i.e. Para 11.5 of Parole/Furlough Guidelines: 2010 is concerned, the same are merely guidelines and cannot be applied blindly in every case. Insofar as the second reason is concerned, the same flies in the face of the circumstance that the petitioner was released on parole

and furlough earlier on numerous occasions and has not been stated to have misused the liberty granted to him. In my view, thus, the reasons are untenable.

5. A perusal of the nominal roll *qua* the petitioner reveals that he has already undergone incarceration for over ten years and five months 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.

6. In the present case, it is observed that the petitioner has been working as Legal Cell Sahayak in jail and has been awarded certificates of merit by successive Director General (Prisons).

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. Furthermore, in the present case, it is observed that the aged father of the petitioner is ailing and requires a heart surgery and the petitioner is the only one who can provide his father succour in his hour of need, owing to the petitioner being the only son.

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

10. 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:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Preet 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.

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

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

SIDDHARTH MRIDUL, J

MARCH 09, 2016/sd