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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 09.05.2016

W.P.(CRL) 926/2016

NARESH

..... Petitioner

Through: Mr. S.K. Sethi, Advocate

versus

STATE

..... Respondent

Through: Mr. R.S. Kundu, ASC (Criminal) with
Mr. Ankut Kumar Gulia and Mr.
Kranti Bhandari, Advocates and SI
Jeet Singh, PS- Prashant 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 (Cr.P.C.) praying for a direction to the official respondent to release the petitioner on parole in order to enable him to arrange funds for his family as well as to re-establish social ties with the family and with the society.

2. The petitioner is aggrieved by the order dated 17.02.2016 whereby his representation for grant of parole on the above stated grounds was rejected by the Competent Authority for the following reasons:-

“.... not agreed to in view of the following:-

- (i) The convict is not entitled for parole in view of Para 11.5 of Parole/Furlough Guidelines:

2010 which provides that “a minimum of six months ought to have elapsed from the date of termination of the previous parole” as the convict has last availed 15 days parole up to 03.09.15 by the order of DHC.

- (ii) As per Para 11.2 of the Parole/Furlough Guidelines, the convict is not eligible for release on parole which provides that he conduct in prison must have been uniformly good. As the convict has been punished on 21.11.12 and 31/01.08.13, 03.12.14, 12.06.15, 03.07.15 & 29.10.15 and the Jail Superintendent has not recommended the parole of the convict.
- (iii) Adverse police report which states that the grounds are not seems to be genuine as convict’s brother is there to look after his ill mother. There may be threat to the victim party/witnesses. There is every possibility of convict to jump the parole. There may be harm to the law & order in the society. The possibility of committing the similar offence cannot be ruled out.”

3. Insofar as, the first reason ascribed by the competent authority whilst rejecting the petitioner’s representation for parole is concerned, the same has been rendered irrelevant in view of the circumstance that six months have in fact elapsed since the time the petitioner last surrendered on the expiry of the parole granted to him. Insofar as, the second ground is concerned, the competent authority has failed to consider the fact that although the petitioner surrendered late on the previous occasion when he was last released on parole but he did surrender voluntarily. The third ground is an adverse police report, which is without any cogent material in support thereof. It is also contrary to the circumstance that he was released on parole

on an earlier occasion and is not stated to have misused the liberty granted to him.

4. A perusal of the nominal roll *qua* the petitioner reveals that he has undergone almost eight years and six months incarceration out of the total sentence of ten years awarded to him.

5. It is trite to say that a person in long incarceration is entitled to be released on parole for a month in a year to re-establish social ties and for physical and mental well being.

6. It is further averred that the family of the petitioner is in a state of penury on account of his incarceration.

7. In view of the above, I see no impediment in granting parole to the petitioner. The petitioner is enlarged on parole for the period of four weeks from the date of his release 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 be furnished by the brother of the petitioner, namely, Rakesh Kumar s/o Sh. Ram Phal, R/o 104, Masjid Wali Gali, Village Rithala, Delhi) to the satisfaction of the trial court subject to the following conditions:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Vijay Vihar, Delhi once a week on every Friday.
- (ii) The petitioner shall also provide the SHO, Police Vijay Vihar, Delhi 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.

8. The writ petition is disposed of accordingly.

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

10. *Dasti.*

MAY 09, 2016

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SIDDHARTH MRIDUL, J

