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

Date of decision: 26th April, 2016

+ W.P.(CRL) 1052/2016

RAJ KUMAR @ RAJU Petitioner
Through Mr. M.L. Yadav, Advocate

versus

STATE Respondent
Through Mr. Ashish Aggarwal, ASC (Crl.)
with Mr. Piyush Singhal, Adv.
SI Bharat Singh, PS H. Nizamuddin

**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.) seeking a mandamus to the official respondent to direct the latter to release the petitioner on parole in order to enable him “to look after his old aged parents; to maintain family and social relations; and to re-establish social ties”.

2. The petitioner is aggrieved by the order dated 15th September, 2015 whereby his application for grant of parole *inter alia* on the above-stated grounds was rejected by the competent authority for the following reasons:-

“(i) As per the extant guidelines, para 12.5 of Parole/Furlough Guidelines 2010 which specifies that “parole would ordinarily be not granted except, if in the discretion of the competent authority special circumstance exist for grant of parole.” (c) if prisoner is a convict for multiple murder, as the convict has committed murder of a couple during a robbery.

(ii) In the absence of the requisite police verification report regarding verification of address and ground taken by the convict from concerned police authorities i.e. from SSP, District Giridh, Jharkhand and SHO, PS Raj Dhanwar, District Giridh, Jharkhand, which could not be obtained despite several requests.

Further, during this year (2015) convict has also availed 05 weeks furlough including last availed 02 weeks furlough w.e.f. 08.06.2015 to 23.06.2015 by the order of DG (P).”

3. Insofar as the reasons ascribed at Sr. No. (i), by the competent authority in the order impugned herein are concerned, it is trite to observe that the Parole/Furlough Guidelines, 2010 are merely guidelines and cannot be applied blindly in every case. Insofar as the other reason i.e. rejecting the petitioner’s representation on the ground that requisite police verification

report could not be obtained, mentioned at Sr. No. (ii) is concerned, needless to state that the apathy of the administration in obtaining police verification report cannot be visited upon the petitioner.

4. Even otherwise, a perusal of the nominal roll *qua* the petitioner reveals that the petitioner has already undergone incarceration for sixteen years and eight months out of the total sentence of life imprisonment awarded to him and his conduct in the jail since the inception of his incarceration has been satisfactory.

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

6. It is also noticed that a representation for pre-mature release made on behalf of the petitioner is pending determination before the Sentence Reviewing Board.

7. A perusal of the order dated 19th July, 2004 that governs the composition and functioning of the Sentence Reviewing Board clearly and unequivocally reveals that there is no bar to a convict being released on parole during the pendency of his representation seeking pre-mature release.

8. 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.

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

10. Consequently, the petitioner, in view of the facts and circumstances as extracted hereinabove, is directed to be enlarged on parole till the determination of his representation seeking pre-mature release in accordance with law by the competent authority, 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 and subject to the further conditions that:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Village Ropa Mahua, P.S. Raj Dhanwar, Distt. Giridh, Jharkhand once a week on every Friday.
- (ii) The petitioner shall also provide the jail authorities as well as 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 concerned

Police Station in Distt. Giridh, Jharkhand without the prior permission of the SHO of the concerned police station, except to surrender before the Jail Authorities, if so directed.

- (iv) Lastly, in the event the representation made on behalf of the petitioner is rejected by the competent authority, the petitioner shall surrender before the jail authorities forthwith.

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

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

SIDDHARTH MRIDUL, J

APRIL 26, 2016

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