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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 30.03.2016

W.P.(CRL) 1046/2016

RASHID

..... Petitioner

Through: Mr. S.K. Sethi and Ms. Dolly Sharma,
Advocates

versus

STATE

..... Respondent

Through: Mr. Sanjay Lao, ASC (Criminal) with
Inspector Rambir Singh and SI Amit
Verma, PS- Gokalpuri

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 institute an SLP before the Hon'ble Supreme Court of India.

2. The petitioner is aggrieved by the order dated 22.02.2016 whereby his representation for grant of parole on the above stated grounds was rejected by the Competent Authority for the following reasons:-

“rejected in view of the following:

- (i) As per Para 12.5 of Parole/Furlough Guidelines: 2010 which provides that “Parole would ordinarily be not granted except, if in the discretion of the competent authority special circumstances exist for grant of parole” (c) If prisoner is convict for multiple murders. The convict has committed murder of two persons.
- (ii) In the absence of requisite police verification report regarding verification of address and ground taken by the convict has not yet been received from concerned police authorities i.e. from DCP, Outer District, Pritampura, Delhi, SHO PS Sultan Puri, Delhi, DCP, North East District, Jhilmil, Delhi and SHO/PS Gokul Puri, Delhi, despite several requests.”

3. The reasons stated by the Competent Authority whilst rejecting the petitioner’s representation for parole in the order impugned herein cannot be sustained, in view of the circumstance that the petitioner cannot be visited with the consequences of the apathy of the administration in conducting police verification. As far as the question of, the applicability of Para 12.5 of the Parole/Furlough Guidelines: 2010 is concerned, the same are guidelines and cannot be applied blindly in every case.

4. A status report has been filed on behalf of the official respondent and the same is taken on record. The address furnished on behalf of the petitioner has been duly verified and found to be correct.

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

7. In the circumstances, since the petitioner wants to assail the judgment dated 20.11.2015, whereby his appeal being Criminal Appeal No.300/2015 was dismissed, by preferring an SLP against the said judgment and order, 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) with one surety of the like amount to the satisfaction of the Jail Superintendent, Tihar subject to the following conditions:-

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

SIDDHARTH MRIDUL, J

MARCH 30, 2016
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