

#25

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 30.03.2016

W.P.(CRL) 1013/2016

MAHINDER KAUSHIK

..... Petitioner

Through: Mr. Bishwajit Kumar Patra, Advocate

versus

STATE

..... Respondent

Through: Ms. Richa Kapoor, ASC (Criminal)
with Mr. Ashish Negi, Advocate

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 02.03.2016 whereby his representation for grant of parole on the above stated grounds was rejected by the Competent Authority for the following reasons:-

“rejected in the absence of requisite police verification report regarding verification of address and grounds taken by convict from concerned police authorities i.e. DCP/East Distt., Delhi, SHO/PS Krishna Nagar, Delhi and SHO/PS Jagat Puri, Delhi, which could not be obtained despite several requests.

Further, the convict, if desires can file SLP from jail itself where free legal aid is available to prisoners. Convict was on regular bail w.e.f. 21.11.2006 to 09.12.2015.”

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.

4. A status report has been filed on behalf of the official respondent and the same is taken on record. A perusal of the status report reveals that subsequent to the rendering of the impugned order dated 02.03.2016 it has been verified that the wife of the petitioner resides at the address furnished by the petitioner.

5. A perusal of the nominal roll *qua* the petitioner reveals that he has already undergone incarceration for almost six years and two 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. The nominal roll further reveals that the petitioner was released on interim bail by this court on number of occasions, during the pendency of trial as well as the appeal, and is not stated to have misused the liberty granted to him.

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 24.11.2015, whereby his appeal being Criminal Appeal No.60/2000

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- Krishna Nagar, Delhi, once a week on every Friday.
- (ii) The petitioner shall also provide the SHO, Police Station- Krishna Nagar, 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 allowed and disposed of accordingly.

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

SIDDHARTH MRIDUL, J

MARCH 30, 2016

dn