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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 10.05.2016

+ W.P.(CRL) 1333/2016 and Crl. MA No. 6994/2016

SANJAY SONKAR

..... Petitioner

Through

Ms. Dolly Sharma for Mr. S.K. Sethi,
Advocate

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through

Mr. Jamal Akhtar for Mr. Rahul
Mehra, Standing Counsel (Crl.)
SI Sukhbir Singh, PS Adarsh Nagar

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 6994/2016 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application is disposed of accordingly.

W.P.(CRL) 1333/2016

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 seeking a direction of mandamus to the competent authority to release the petitioner on parole in order to enable him to meet his children and arrange jobs for them and to get proper medical treatment since he is an HIV patient; and also to re-establish the family and social ties.

2. The petitioner is aggrieved by the order dated 31st March, 2016 whereby his representation for grant of parole on the above-stated grounds was rejected by the competent authority for the following reasons:-

“(i) As per para 11.2 of Parole/Furlough Guidelines, 2010 provides that “the conduct in prison must have been uniformly good and jail conduct of convict is reported to be unsatisfactory being punishment dated 23/24.04.2015.

(ii) As per 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.” The convict has previous availed 01 month parole upto 03.10.2015 by the order of DHC.

(iii) Adverse police report which states that there may be law and order problem in the area after releasing of convict on parole. The possibility of jumping the parole cannot be ruled out. Convict is involved in 13 criminal cases. He is a habitual offender. The possibility of committing similar offence by the convict cannot be ruled out.”

3. The reasons ascribed by the competent authority whilst rejecting the petitioner’s representation for parole in the order impugned herein, are not sustainable. The same are not supported by any cogent material and are contradictory inasmuch as, the petitioner was released on parole earlier by this Court on numerous occasions and is not stated to have misused the

liberty granted to him. As far as the question of applicability of Para 11.5 of the Parole/Furlough Guidelines: 2010 is concerned, the same are merely guidelines and cannot be applied blindly in every case.

4. Even otherwise, a perusal of the nominal roll *qua* the petitioner reveals that the petitioner has already undergone incarceration for more than twelve years and four months out of the total sentence of life imprisonment awarded to him. It further reveals that no labour work is being allotted to the petitioner herein since he is medically unfit (stated to be HIV positive).

5. 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.

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

8. 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 that:-

- (i) The applicant shall not leave the National Capital Territory of Delhi without prior permission of this court.
- (ii) The applicant shall report to the SHO, Police Station- Adarsh Nagar, Delhi, once a week on every Friday during the period of parole.
- (iii) The petitioner shall provide his mobile telephone number to the concerned SHO, which he undertakes to keep operational.
- (iv) The petitioner shall surrender at the expiry of the period of parole before the jail authorities.

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.

11. A copy of this order be given dasti to counsel for the petitioner under signature of the Court Master.

SIDDHARTH MRIDUL, J

MAY 10, 2016
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