

#46

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.05.2016

W.P.(CRL) 1488/2016

VIRENDER KUMAR @ MINTU

..... Petitioner

Through: Mr. P.K. Dubey, Advocate

versus

STATE

..... Respondent

Through: Ms. Nandita Rao, ASC (Criminal)

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 release the petitioner on parole in order to enable him to repair his damaged house as well as to re-establish social ties with the family and society.

2. The petitioner is aggrieved by the order dated 31.03.2016 whereby his representation for grant of parole on the above stated grounds was rejected by the Competent Authority for the following reasons:-

“..... rejected in view of the following:-

- (i) The convict is not entitled for parole as per para 12.5 of Parole/Furlough Guidelines 2010 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 three persons.

- (ii) Adverse police report which states that the grounds given in the application are not found genuine. The convict’s family is residing in well constructed house. Convict’s father and brothers are capable to look after his family. There may be adverse affect on victim party and law & order situation in the area, if the convict is released on parole. There is every possibility of convict for jumping the parole, if granted.

Further, the convict has last availed 01 month parole w.e.f. 30.03.2015 to 30.04.2015 by the order of DHC.”

3. The reasons stated by the Competent Authority are contrary to the record, inasmuch as, this Court had already released him on parole w.e.f. 30.03.2015 to 30.04.2015, after considering the scope and ambit of para 12.5 of Parole/Furlough Guidelines, 2010. Insofar as, the other reason stated in the rejection order is concerned, the same cannot be countenanced, in view of the circumstance that it is trite to say that every convict in long incarceration is entitled to parole to re-establish social and family ties and for physical and mental well being. Furthermore, photographs of the family house of the petitioner have been placed on record, which clearly support his contention that the said house is in a dilapidated condition and needs repair.

4. Upon verification, a status report has been filed on behalf of the official respondent. The same is taken on record. A perusal of the same reveals that the address of the petitioner has been duly verified.

5. A perusal of the nominal roll *qua* the petitioner reveals that he has undergone almost twelve years and two months incarceration out of the total sentence of life imprisonment awarded to him.

6. It is trite to say that a person in long incarceration, as above stated, 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.

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.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the satisfaction of the Superintendent, Central Jail, Tihar subject to the following conditions:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Village Sara, District Ghaziabad, Uttar Pradesh, once a week on every Friday.
- (ii) The petitioner shall also provide the SHO, Police Station - Village Sara, District Ghaziabad, Uttar Pradesh with his mobile telephone number which he undertakes to keep operational.
- (iii) The petitioner shall not leave the jurisdiction of the SHO Police Station- Village Sara, District Ghaziabad, Uttar Pradesh during the period of parole, without the prior permission of this Court, except to surrender before the jail authorities.

(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.

MAY 11, 2016
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SIDDHARTH MRIDUL, J

