

#46

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 16.05.2016

W.P.(CRL) 1545/2016

GURMEET SINGH

..... Petitioner

Through: Mr. Puneet Singhal, Advocate

versus

STATE

..... Respondent

Through: Mr. R.S. Kundu, ASC (Criminal) with
SI Aditya, PS- Rajouri Garden

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 participate in an amicable partition of the shares of an ancestral property among siblings since the aged and infirm mother of the petitioner is in her twilight phase of life and wishes to resolve the issue of property during her lifetime; to attend to the daily needs of the ailing octogenarian mother who requires an attendant for herself, to take care of her medical as well as other daily needs; and to re-establish social ties with family members 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:-

“.... not acceded to in view of the following:-

- (iii) The convict is not entitled for parole 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 previously availed 01 month parole up to 27.09.2015 by the order of DHC.
- (iv) In the absence of requisite police verification report from concerned police authority i.e. DCP/West Distt. & SHO/Rajouri Garden, Delhi which could not be obtained despite several requests.”

3. Insofar as, the first reason ascribed by the Competent Authority whilst rejecting the petitioner's representation for parole is concerned, the same has been rendered irrelevant in view of the circumstance that six months, as stated in Para 11.5 of the Parole/Furlough Guidelines, 2010, have in fact elapsed since the time the petitioner last surrendered on the expiry of the parole granted to him. The second ground is a complete non-application of mind, inasmuch as, the petitioner cannot be visited with the consequences of the apathy of the administration in furnishing the requisite police verification report.

4. A perusal of the nominal roll qua the petitioner reveals that he has undergone almost four years and nine months incarceration out of the total sentence of life imprisonment awarded to him. The petitioner has been released on parole by the Competent Authority on an earlier occasion w.e.f.

27.08.2015 to 27.09.2015 and is not stated to have misused the liberty granted to him. The overall conduct of the petitioner in jail has been satisfactory since the inception of his incarceration.

5. A status report has been filed on behalf of the official respondent. The same is taken on record. A perusal of the status report reveals that the petitioner has an octogenarian mother who wishes to resolve the issue of a house property belonging to the family, during her lifetime, and the petitioner's presence for the same is essential.

6. It is trite to say that a person in long incarceration 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.5,000/- (Rupees Five 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- Rajouri Garden, Delhi once a week on every Friday.
- (ii) The petitioner shall also provide the SHO, Police Rajouri Garden, 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 Superintendent, Central Jail, Tihar for necessary compliance and onward communication of the same to the petitioner.

MAY 16, 2016
dn

SIDDHARTH MRIDUL, J

