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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1596/2016

RAJEEV KUMAR

..... Petitioner

Through: Ms Manika Tripathy Pandey and
Mr Ashutosh Kaushik, Advocate.

versus

STATE

..... Respondent

Through: Mr Jamal Akhtar, Advocate for Mr Rahul
Mehra, Standing Counsel (Crl.) with
Insp. Rajeev Nimal, PS- Kalyanpuri.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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20.05.2016

The present petition under Article 226 of the Constitution of India seeks a writ of mandamus directing the competent authority to release the petitioner on parole in order to enable him “to file SLP before the Hon’ble Supreme Court of India; to re-establish social ties with family members and society”.

The petitioner is aggrieved by the order dated 25.04.2016 whereby his application for grant of parole on the above stated grounds was rejected by the competent authority for the following reasons:-

“**rejected** in view of adverse police report which states that the taken grounds are not genuine. Convict may disturb the law and order situation in the area and may threat/harm the victim party/witnesses of the case. Convict may jump the parole and commit similar offence, if released. The convict was released on regular bail w.e.f. 23.05.2002 to 07.10.2015.

Further, the convict if desires, can file SLP from jail itself where free legal aid is available to prisoners.”

A perusal of the reasons ascribed by the competent authority in the order

impugned in the present petition reveals that the same are unsustainable. The asseveration that the grounds taken are not genuine and the convict may disturb law and order situation in the area, is not supported by any cogent material and is contrary to the record inasmuch as the petitioner was released on regular bail from 23.05.2002 to 07.10.2015 and is not stated to have misused the liberty granted to him then. Insofar as the asseveration that the convict can file SLP from the jail is concerned, it is in the teeth of the decisions of this court that every convict has a constitutional right to institute proceedings before a higher court assailing the judgment and orders rendered by the courts below.

The nominal roll qua the petitioner clearly reveals that his overall jail conduct has been satisfactory since the inception of his incarceration. The petitioner has undergone six years and four months' incarceration out of the total sentence of life imprisonment. The petitioner was earlier released on regular bail and he is not stated to have misused the liberty granted to him.

The petitioner wants to assail the judgment and order dated 10.08.2015, whereby Criminal Appeal No.549/1999 instituted by him assailing his conviction and sentence, has been dismissed by this court, by instituting a Special Leave Petition before the Hon'ble Supreme Court of India.

In view of the foregoing, I see no impediment in allowing the present petition. 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.10,000/- with one local surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions:-

- (1) The petitioner shall report to SHO, Police Station- Kalyanpuri once a week on every Wednesday during the period of parole.
- (2) He shall furnish his mobile telephone number, which he undertakes to keep operational, to the concerned SHO.
- (3) He shall not leave the National Capital Region without prior permission of this court.

- (4) Lastly, the petitioner shall surrender before the jail authorities at the expiry of the period of parole.

With the above directions the writ petition is disposed of.

A copy of this order be sent to the Jail Superintendent for compliance and to be communicated to the petitioner.

Dasti.

SIDDHARTH MRIDUL, J

MAY 20, 2016

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