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

+ W.P.(CRL) 1691/2016

ZAFAR-UL-ISLAM

..... Petitioner

Through: Mr. S.B. Dandapani, Advocate

versus

STATE

..... Respondent

Through: Ms. Kamna Vohra, ASC (Criminal)

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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03.06.2016

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 (Cr.P.C.) praying for a mandamus to the official respondent to release the petitioner on parole in order to enable him to get treatment for himself as he is suffering from hernia and undergoing treatment from outside jail hospital i.e. Tirupati Stone Centre, Delhi for which the convict has been advised by the doctor to undergo operation on 02.03.2016 on early stage; wife of convict had fallen from staircase due to which the right hand shoulder received tissues injuries and she is highly mentally depressed hence she needs intensive care and expert medical treatment.

2. The petitioner is aggrieved by the order dated 22.02.2016 whereby his representation for grant of parole on the above stated grounds was rejected by the Competent Authority for the following reasons:-

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

- (i) 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 04 weeks

parole upto 25.02.2016 by the order of DHC.

- (ii) Adverse police report which states that taken grounds are not genuine, because he can get better treatment in Govt. Hospital through jail authority. The possibility of committing the offence by the convict if released on parole cannot be ruled out.”

3. Upon a direction from this Court by way of order dated 27.05.2016, a report qua the current medical condition of the petitioner, authored by the Medical Officer In Charge, Dispensary, Tihar Jail, has been filed. The same is taken on record.

4. A perusal of the above said medical report reveals that the latter is being treated at the DDU Hospital and has been directed by a surgery specialist to undergo hernia repair after PAC check-up. The prescribed PAC has already been conducted on 02.06.2016 and the petitioner has been advised to get the Special Blood Investigation (Serum Electrolyte) done. The said investigation has been done and the report in that behalf is awaited. It is further noticed that the petitioner is receiving the required treatment and appropriate medication.

5. It would be relevant to notice that the petitioner had been released on parole for a period of four weeks upto 25.02.2016, by this Court. The petitioner has also been released on furlough by the Director General (Prisons), immediately prior to his release on parole. However, since Mr. Dandapani, learned counsel appearing on behalf of the petitioner states that the petitioner has a right to elect to be treated at a private hospital as well as, the circumstance that his wife requires extensive treatment to recover from a fall and intensive care, owing to the circumstance that she is depressed, in my view, on humanitarian grounds, the present petition must be allowed.

6. In view of the foregoing, 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) The petitioner shall not leave the National Capital Territory of Delhi during the period of parole, without the prior permission of this Court.
- (ii) The petitioner is directed to surrender before the jail authorities at the expiry of the period of parole.

7. The writ petition is allowed and disposed of accordingly.

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

SIDDHARTH MRIDUL, J

JUNE 03, 2016

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