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

+ **W.P.(CRL) 2393/2016**

BHAGAT SINGH @ SONU

..... Petitioner

Through: Mr. Rajender Chhabra and
Mrityunjay Tayode, Advocates

versus

STATE

..... Respondent

Through: Ms. Nandita Rao, ASC with Ms.
Srilina Roy, Adv with SI Harendra
Singh, PS Prashant Vihar

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
18.11.2016

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The status report tendered in court is taken on record.

The petitioner has preferred the present writ petition to, firstly, seek the setting aside of the rejection order dated 19.07.2016 whereby the application of the petitioner seeking parole has been rejected in view of the adverse police report which states that there is a possibility that releasing of the petitioner may have an adverse impact on the law and order and security in the area; there is a possibility of complainant and the witnesses being threatened by the petitioner if he is released on parole, and; it is also possible that the petitioner may jump the parole in case he is released on parole. The

other reason is that as per the record of PS Swaroop Nagar, six cases are pending against the petitioner and that he is a habitual offender. The possibility of his committing similar offences also cannot be ruled out.

The petitioner also seeks a direction that he be released on parole for a period of three months.

The nominal roll on record shows that the petitioner stands convicted u/s 392/328/365/506 IPC in case FIR No.47/2011 registered at PS Prashant Vihar. The maximum substantive sentence awarded to him is 5 years R.I. His appeal was dismissed by this court on 18.04.2016 while setting aside his conviction u/s 328 IPC. There was a slight modification in the sentence which is not relevant for the present purpose to be taken note of. The nominal roll shows that the petitioner has undergone 2 years 7 months and 28 days of sentence as on 28.07.2016 and the unexpired portion of the sentence is 1 year 9 months and 2 days. The jail conduct of the petitioner has been found to be satisfactory in the last one year. He had been released on interim bail between 19.09.2014 and 01.11.2014 by this court, but he surrendered late by two days i.e. on 03.11.2014. There are three other cases which are shown to be pending in which the petitioner is involved and is on bail.

Ms. Rao submits that the address of the petitioner has been got verified and his wife, mother and brother have no objection to the petitioner being released on parole. The father of the petitioner is residing in a gurudwara.

Learned counsel for the petitioner submits that the parole application are generally being rejected in a mechanical manner by observing that there is a possibility of the convict committing further crime; that there is a

possibility of his threatening the victim and the witnesses; that it may have an adverse impact on the law and order and security in the area; that there is a possibility of the convict jumping the parole.

No doubt, such possibility always exists. But mere existence of such possibilities cannot be a ground to reject the application for parole/ furlough. The authority concerned has to apply his mind to the facts of each case and examine what is the probability of one of such situations arising in case the convict is released on parole/ furlough. The probability has to be assessed on the basis of the nature of the offence in which the convict was involved; the number of his involvements; his past conduct in jail and out of jail when he may have earlier released on interim bail/ parole/ furlough, and other such like considerations. Merely to state that there is a possibility of one or other situations arising – as taken note of herein above, is not sufficient. There should be some germane material to back up the reason for rejection of the application for parole/ furlough. In the present case, there appears to be none. The impugned order, therefore, is one passed mechanically and ritualistically. It cannot be sustained and is, accordingly, quashed.

Considering the fact that the petitioner has earlier been released on interim bail and, apart from the fact that he surrendered late by two days, there was no grievance or complaint with regard to his conduct while he was granted bail; the jail conduct of the petitioner has been found to be satisfactory in the last one year, and; he has already undergone more than half the sentence, out of the maximum sentence of five years awarded to him, I am inclined to allow the petition and direct that he be released on parole.

However, considering the fact that the petitioner is stated to be

involved in three other cases as per the nominal roll, and in six cases as per the rejection order, the petitioner cannot be released from the prison unless and until he also obtains bail in all the other cases which may be pending against him.

The impugned order is quashed and the petition is allowed. The petitioner is directed to be released on parole for a period of four weeks subject to:

- i) his furnishing personal bond with one surety in the sum of Rs.10,000/- to the satisfaction of the Jail Superintendent;
- ii) he shall provide his mobile phone number to the Jail Superintendent at the time of his release, which shall be kept in working condition at all times. The same shall not be changed without prior intimation to the Jail Superintendent;
- iii) he shall report at the local police station to mark his attendance on every Monday at 11:00 a.m. during the period of parole;
- iv) he shall duly surrender at the end of the period of parole; and
- v) he shall also not indulge in any criminal activity while on parole.

This order shall be given effect to, provided he has obtained bail in all other cases against him.

Petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

NOVEMBER 18, 2016

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