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

+ W.P.(CRL) 2775/2016

PREM SHANKAR Petitioner

Through: Mr. Sumeet Verma, Advocate
versus

STATE Respondent

Through: Mr. R.S. Kundu, ASC with Mr. Ankit
Kr Gulia and Mr. Gaurav Kumar with
SI Prakash Chand, PS Lodhi Colony

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

21.09.2016

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The petitioner has preferred the present petition to assail the order dated 04.08.2016 rejecting the petitioner's application for parole. The petitioner also seeks a direction for his release on parole for a period of three months for preferring Special Leave Petition before the Supreme Court against the judgment of this court passed in Crl. A No.371/1998 decided on 23.09.2015.

The petitioner has been convicted of the offence under Section 302/396/120B IPC involving three murders in case FIR No.253/1995 registered at PS Lodhi Colony. He has been sentenced to undergo rigorous imprisonment for life along with fine of Rs.50,000/-, and in default of payment of fine to undergo further sentence of 12 months simple imprisonment. The nominal roll shows that even though the petitioner was convicted by this court on 23.09.2015, he did not surrender. He was arrested only on 29.04.2016.

Mr. Kundu points out that repeatedly NBWs had to be issued against him. Yet, he did not surrender. The nominal roll further states that post conviction, the petitioner has undergone incarceration of only 3 months and 29 days as on 29.08.2016, and the total sentence undergone by him is only 2 years 5 months and 4 days. The nominal roll also shows that the co-convict Pramod, s/o. Chunnilal is absconding since 02.02.2005. Mr. Kundu submits that, in these circumstances, the petitioner is not entitled to grant of parole to prefer a Special Leave Petition before the Supreme Court.

Learned counsel for the petitioner states that the petitioner was not even aware of his conviction by this court vide judgment dated 23.09.2015, since he had been acquitted by the Trial Court and he was later convicted in appeal. He further submits that he was not even in Delhi and was not aware about the issuance of NBWs.

It is not in dispute that the petitioner's family resides in Delhi. Eventually, he had to be arrested and did not surrender on his own. It cannot be believed that the petitioner was not aware of his conviction even after repeated NBWs were issued against him at his given address in Delhi. The petitioner has had sufficient time to arrange his affairs and prefer a Special Leave Petition post his conviction between 23.09.2015 and 29.04.2016. In any event, the petitioner is not precluded from preferring a Special Leave Petition through jail. In case the petitioner wishes to engage a private counsel, the counsel shall be granted access to the petitioner in jail to be able to instruct the counsel. Dismissed.

VIPIN SANGHI, J

SEPTEMBER 21, 2016 sr