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

\+ W.P.(CRL) 3475/2016

HIMANSHU

..... Petitioner

Through: Mr. Hemendra Jailiya, Advocate.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel and Mr.Jamal Akhtar, Advocate for the State wih SI Ramakant, PS Sarai Rohella.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **02.12.2016**

The petitioner has preferred the present petition to seek parole for a period of one month. One of the grounds stated in the petition is that the petitioner has to undergo surgery on 07.12.2016. Thereafter, he would need post operative care which cannot be provided in prison.

The factual position is that the petitioner has in the year 2016 itself been granted three spells of furlough for 3 weeks, 2 weeks and 2 weeks, and one spell of parole for 30 days. The last spell during which the petitioner was on parole was between 25.10.2016 and 25.11.2016. The petitioner had moved a writ petition being W.P.(Crl.) No. 3346/2016 to seek extension of

his parole. The same was dismissed by this court on 25.11.2016 i.e. barely a week ago. The reason for dismissal of the said petition was that even though he was on parole, he did not visit the OPD at RML Hospital till 18.11.2016. On the said date, his colonoscopy, which is only an investigative process and not a surgery was fixed for 07.12.2016. This court taking into account the aforesaid position directed that the petitioner should surrender and he was not granted extension of parole. However, the Jail Superintendent was directed to take the petitioner to RML Hospital on 07.12.2016 and provide all necessary medical assistance. It is also to be noticed that the petitioner has been granted furlough for a period of three weeks vide order dated 27.10.2016 by the D.G. (Prisons). I may observe that this furlough granted to the petitioner is in excess of what is permissible under the guidelines, since the petitioner has already enjoyed three spells of furlough as taken note of herein above apart from one spell of parole.

The nominal roll shows that the said spell of furlough can be availed of by the petitioner after the surrender of the co-accused who is presently on furlough and scheduled to surrender on 18.12.2016. In these circumstances, I am not inclined to grant parole to the petitioner at this stage. If the petitioner's colonoscopy is done on 07.12.2016, depending on the medical situation as it emerges, it shall be open to the petitioner to take appropriate steps.

VIPIN SANGHI, J

DECEMBER 02, 2016
sr