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

+ W.P.(CRL) 2444/2015

RAKSHA JINDAL Petitioner
Through Mr.Sumit Arora, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents
Through Ms.Kamna Vohra, ASC.
Ms.Monica Gupta, Adv. for
Ms.Rajdipa Behura, SPP for CBI.
SI Rajesh Kumar PS Tilak Marg.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **07.01.2016**

The petitioner had applied before the competent authority for being released on parole for a period of 3 months for getting her knee replaced as she has been suffering from degenerative spine osteoporosis with D12 compression fracture.

The aforesaid prayer of the petitioner was rejected on the ground that she had not served the mandatory one year sentence in jail for availing the benefit of parole.

Learned counsel for the petitioner submits that she has remained in jail for about a year including remission, by now.

The petitioner was convicted by the Trial Court and was sentenced to undergo RI for 4 years and fine. In appeal, the conviction was maintained but the sentence was reduced RI from 4 years to 2 years.

The SLP preferred by the petitioner was dismissed.

However, while dismissing the SLP, the Hon'ble Supreme Court observed that any person having medical problem, could approach the High Court and seek appropriate directions.

The medical papers attached to the petition clearly demonstrate that the petitioner is a permanently disabled person. The permanent disability certificate vide reference No.Ortho/No.2013-5361 dated 21.03.2013 has also been issued by the Department of Orthopaedics Surgery, Postgraduate Institute of Medical Education and Research, Chandigarh.

The medical reports further reveal that the petitioner was operated for her B/L fractures of both bone legs in Chandigarh and had remained bedridden for quite some time. The petitioner is now required to undergo total knee replacement surgery for her left knee.

Learned counsel for the petitioner has also submitted that during the period of her incarceration, she has developed Glaucoma for which she would be required to undergo operation apart from cataract which has developed in both her eyes.

The status report affirms the fact that the petitioner is critically ill.

Nonetheless, Ms.Kamna Vohra, Additional Standing Counsel, submits that the petitioner has not completed mandatory term of sentence excluding remission for her to avail the benefit of parole.

The petitioner is aged about 71 years.

Considering the age and medical condition of the petitioner, this Court is inclined to release her on parole for a period of 30 days to be counted from the date of her release and coinciding with the date of operation for knee replacement surgery.

Let the petitioner be released on parole for a period of 30 days on her furnishing a bond in the sum of Rs.10,000/- with two sureties of like amount, to the satisfaction of the Trial Court, subject to the following conditions:-

- a) The petitioner shall ensure that knee replacement surgery be done during the period of parole.
- b) The petitioner shall positively surrender on the expiry of the said period of parole.
- c) The petitioner shall not engage herself in any unlawful activity.
- d) She shall furnish her mobile telephone number and the mobile telephone number of both the sureties to the SHO of the concerned police station so that in case of necessity she could be tracked and her whereabouts could be ascertained.

In case, the petitioner flouts any one of the conditions, an application could be moved by the SHO for cancellation of her parole and for taking of the coercive steps for securing her attendance.

With these observations, the petition is disposed of.

Dasti.

A copy of this order be communicated to the Superintendent of the concerned Jail for information and compliance.

ASHUTOSH KUMAR, J

JANUARY 07, 2016/ab