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

+ W.P.(CRL) 2854/2015

NAUSHAD

..... Petitioner

Through: Ms.Manika Tripathy Pandey and
Mr.Ashutosh Kaushik, Advocates.

versus

STATE

..... Respondent

Through: Mr.R.S.Kundu, A.S.C. for the State
with SI Brij Mohan, PS Welcome.

AND

+ W.P.(CRL) 670/2016

SHAMIM

..... Petitioner

Through: Mr.Biswajit Kumar Patra, Advocate.

versus

STATE

..... Respondent

Through: Ms.Srilina Roy, Advocate for
Ms.Nandita Rao, A.S.C. for the State
with SI Brij Mohan, PS Welcome.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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06.04.2016

1. These two petitions have been filed by the petitioners namely Naushad S/o Late Sh. Kamaluddin (in W.P.(Crl.) No.2854/2016) and Shamim (in W.P.(Crl.) No.670/2016) seeking parole for a period of three W.P.(Crl.) No.2854/2015 & 670/2016

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months to enable them to file SLP before the Hon'ble Supreme Court and to maintain social ties.

2. Both the petitioners are family members i.e. petitioner Shamim is mother of petitioner Naushad, who have been convicted in case FIR No.136/2006 under Section 302/307 IPC PS Welcome. Status report in the both the matters have been filed by the State verifying their address i.e. H.No.5, Sangam Vihar, P.O. Loni, Distt. Ghaziabad, U.P. (as given in the memo of parties) to be correct.

3. Learned counsel for the Petitioners submit that the Petitioners had made representations to the Respondent/State praying for grant of parole which have been rejected by the respondent vide order dated 03.11.2015 and 08.12.2015.

4. Learned counsel for the Petitioners further submit that in terms of Parole/Furlough Guidelines-2010 issued by the Government of National Capital Territory of Delhi, it is open to the Government to consider the applications for grant of parole inter alia on various grounds which also includes the ground of filing of a Special Leave Petition before the Supreme Court of India against a judgment delivered by the High Court convicting or upholding the conviction, as the case may be. They further submit that in the present case also, the Petitioners are seeking parole for filing SLP before the Supreme Court which is covered by ground 9.7, therefore, the present Petitioner may be granted parole for the said purpose. The said guideline reads as under:-

"9.7 To pursue the filing of a Special Leave Petition before the Supreme Court of India against a judgment delivered by the High Court convicting or upholding the conviction, as the case may be."

5. Learned counsel for the Petitioners further submit that the Petitioners
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undertake to abide by any condition deemed fit by this Court while considering their prayer.

6. On behalf of the State, it has been submitted that appropriate order may be passed keeping in view the Parole/Furlough Guidelines-2010 issued by the Government of National Capital Territory of Delhi.

7. Nominal rolls of the Petitioners have also been placed on record, perusal of which shows that the conduct of the Petitioners, during the period of incarceration, has been 'Satisfactory'.

8. Considering the facts and circumstances of the case and the fact that the Petitioners are seeking parole for the purpose of filing SLP before the Supreme Court, which is permissible under the guidelines, the prayer for grant of parole is allowed to the extent that the Petitioners are granted parole for a period of four weeks from the date of their release to enable them to file SLP in the Hon'ble Supreme Court, on their each furnishing personal bond in the sum of Rs.10,000/- with one surety each of the like amount to the satisfaction of the concerned Jail Superintendent and subject to the following conditions:-

(i) Since the petitioners are being granted parole for the twin purpose of filling SLP before the Hon'ble Supreme Court and re-establishing social ties and they are resident of H.No.5, Sangam Vihar, P.O. Loni, Distt. Ghaziabad, U.P. the Petitioners shall keep the SHO/Duty Officer, P.S. Welcome, Delhi informed about their place of residence in Delhi as well as their place of residence in Ghaziabad, U.P. and their contact numbers i.e. mobile, landline or both. They shall further inform the SHO/Duty Officer, P.S. Welcome, Delhi as to the period for which they shall be staying at Ghaziabad, U.P.

(ii) The Petitioners shall report on every Monday at 11 AM to the Duty Officer of the concerned Police Station/Police Post under the jurisdiction of which, the Petitioners shall stay during the period of parole at Ghaziabad, U.P.

(iii) The Petitioners shall submit proof of filing of the Special Leave Petition to the SHO, P.S. Welcome, Delhi with the name of counsel who filed the SLP.

(iv) While submitting the bail bond, they will furnish to the Jail Superintendent the address and the contact numbers of the place where they would reside in Delhi and at Ghaziabad, U.P., during the period of parole.

9. It is, however, made clear that on expiry of the parole period, the Petitioners shall surrender before the concerned Jail Superintendent, who shall submit the surrender report to this Court along with the particulars of the SLP filed by the Petitioners before the Supreme Court.

10. Perusal of the record reveals that vide order dated 11.03.2016 passed by this Courts in W.P.(Crl.) No.399/2016, co-convict Naushad S/o Rafique has been granted parole for a period of four weeks. **Thus, it is made clear that this order shall come in operation only after surrender of the co-convict Naushad S/o Rafique. The concerned Jail Superintendent shall also ensure that only one convict is released on parole at a time in view of Clause 13 of Parole/Furlough Guidelines -2010 issued by the Govt. of NCT of Delhi.**

11. Both the writ Petitions stand allowed in the above terms.

12. The Petitioners be informed through the Jail Superintendent about the order passed. *Dasti* as well.


PRATIBHA RANI, J.

APRIL 06, 2016/ 'st'
W.P.(Crl.) No.2854/2015 & 670/2016