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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 06.01.2016

W.P.(CRL) 2926/2015

NAVEEN KAUSHIK

..... Petitioner

Through: Mr. Tarun Khanna, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Jamal Akhtar, Advocate for Mr.
Rahul Mehra, Standing Counsel
(Criminal) and SI Karan Pal Singh, PS
Anand Parbat

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India praying for a direction to the official respondent to release the petitioner on parole in order to enable him to prefer an SLP before the Hon'ble Supreme Court of India.
2. The petitioner is aggrieved by the order dated 04.11.2015 whereby his application for parole on the above ground was rejected by the competent authority for the following reasons:-

- “(i) Convict is not eligible for release on parole as per para 11.1 of parole/furlough guideline which states that a convict must have served at least one year in prison excluding any period covered by remission. The convict has undergone only 2½ months in jail.
- (ii) Adverse police report which states that there will be an adverse impact on the law & order situation of the area and on victim party. There may be a threat to the life of the convict during the parole period from other criminals. Convict may commit similar offence. Convict’s wife and mother have no control over him and he may jump the parole.”

3. The order impugned herein cannot be sustained. Insofar as para 11.1 of the parole/furlough guidelines is concerned, it is trite to say that the same is merely a guideline and cannot be applied blindly in every case.

4. A perusal of the nominal roll qua the petitioner reveals that the petitioner has already undergone six months incarceration out of the total sentence of two years awarded to him by the trial court. The petitioner cannot be expected to undergo the entire sentence before prosecuting a proceeding before a higher court.

5. The other ground on which the representation has been rejected by the competent authority is without any cogent material. The overall conduct of

the petitioner in jail has been satisfactory from the inception of his incarceration and nothing adverse has been reported against him.

6. It is trite to say that there are number of judicial pronouncements in which it has been held that it is the constitutional right of every convict to be released on parole in order to prosecute proceedings before a higher court. The petitioner wants to carry in appeal the judgment and order of this Court dated 26.05.2015 whereby Criminal Appeal No.528/2012 filed by him challenging his conviction and sentence was dismissed by this Court by instituting an SLP assailing that judgment before the Hon'ble Supreme Court of India.

7. In view of the foregoing, I see no impediment in allowing this petition. The petitioner shall be enlarged on parole for the period of four weeks from the date of his release subject to his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount to the satisfaction of the Jail Superintendent, Tihar subject to the following conditions:-

- (i) During the period the petitioner remains out on parole, he shall report to the SHO, Police Station- Anand Parbat, Delhi, once a week on every Friday.

- (ii) The petitioner shall also provide the SHO, Police Station- Anand Parbat, Delhi with his mobile telephone number which he undertakes to keep operational.
- (iii) The petitioner shall not leave the National Capital Territory of Delhi during the period of parole, without the prior permission of this Court.
- (iv) The petitioner is directed to surrender before the jail authorities at the expiry of the period of parole.

8. The writ petition is disposed of accordingly.

9. A copy of this order be given *dasti* under the signature of Court Master to counsel for the parties.

SIDDHARTH MRIDUL, J

JANUARY 06, 2016

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