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

+ W.P.(CRL) 24/2016

RABI-UL-ISLAM

..... Petitioner

Through: Mr Ankur Sood, Advocate.

versus

STATE

..... Respondent

Through: Mr Rahul Mehra, Standing Counsel (Crl.)
with Mr Amrit Singh, Advocate.
ASI Devender Singh, PS- New Friends
Colony.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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09.03.2016

The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 seeking release of the petitioner on parole in order to enable him to file an SLP before the Supreme Court of India.

The petitioner is aggrieved by the order dated 11.12.2015 whereby his application for grant of parole for filing the SLP was rejected by the competent authority for the following reasons:-

- “(i) The convict is not entitled for parole in view of Para 11.1 of Parole/Furlough Guidelines: 2010 which provides that “a convict must have served at least one year in prison excluding any period covered by remission” and the convict has served only 10 months & 21 days incarceration after conviction as per Nominal Roll.
- (ii) Adverse police report which states that the address is of Jhuggies without ownership. The grounds seems not to be genuine. It will have bad

effect on mind of victim party. FIR No. 629/07, u/s 308/34 IPC, PS N.F. Colony is pending against the convict. Convict is a habitual offender. Police has expressed their apprehension that convict may jump the parole and commit/involved in other criminal cases. The convict was release on I. Bail 29.05.15 to 02.06.15.”

Insofar as the rejection in pursuance to Para 11.1 of Parole/Furlough Guidelines 2010 is concerned, the same is no longer relevant in view of the circumstance that he has completed one year’s incarceration as of now.

Insofar as the other reason that he is involved in another FIR is concerned, that cannot be a circumstance to deny him parole since the petitioner is on bail in that FIR and is not stated to have misused the concession granted to him.

A perusal of the nominal roll qua the petitioner reveals that he has already undergone six years and ten months incarceration out of the total sentence of life imprisonment. His overall conduct in jail has been satisfactory from the inception of his incarceration. The petitioner has earlier been released on interim bail and is not stated to have misused the liberty granted to him.

It is trite to state that it is the constitutional right of every convict to prosecute proceedings before a higher court and there are number of judicial pronouncements in which it has been held that every convict is entitled to parole in order to prosecute proceedings before a higher court.

In view of the foregoing, I see no impediment in allowing the present petition. Consequently, since the petitioner wants to assail the judgment dated 07.09.2015 passed by this court in Crl.A.No.536/2015, whereby his conviction and sentence awarded to him has been upheld in part, by preferring an SLP

against the said judgment and order, the petitioner is enlarged on parole for a period of four weeks from the date of his release on his furnishing a personal bond in the sum of Rs.5,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions:-

- (1) The petitioner shall report to SHO, Police Station- New Friends Colony once week on every Friday during the period of parole.
- (2) He shall furnish his mobile telephone, which he undertakes to keep operational, to the concerned SHO.
- (3) He shall not leave the National Capital Territory of Delhi without prior permission of the court.
- (4) He shall not approach either the victim or the witnesses in the case in which he has been convicted. In the event any complaint is received in this behalf, the official respondent will be at liberty to approach this court.
- (5) Lastly, the petitioner shall surrender before the jail authorities at the expiry of the period of parole.

With the above directions the writ petition is disposed of.

A copy of this order be sent to the Jail Superintendent to be communicated to the petitioner.

MARCH 09, 2016
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SIDDHARTH MRIDUL, J