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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 1959/2017, CM No.8688/2017 (by the petitioner for stay) &
CM No.8689/2017 (by the petitioner for release on bail)
GAVADE KISAN BABU Petitioner

Through: Mr. J.P. Sharma with Mr. Ram Naresh,
Advocates

versus

UNION OF INDIA

..... Respondent

Through: Ms. Anjana Gosain and
Ms. Shalini Nair, Advocates.

CORAM:**HON'BLE MS. JUSTICE HIMA KOHLI****HON'BLE MS. JUSTICE REKHA PALLI****ORDER**

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16.11.2017

1. The present petition is directed against the order dated 19.10.2016 issued by the Respondent/Director General, National Security Guard, Ministry of Home Affairs, Government of India, whereby the conviction and sentence of five years' imprisonments awarded by the General Security Guard Court, has been confirmed.
2. Ms.Gosain, learned counsel for the respondent states that she had pointed out before this court, on 03.03.2017 that the petitioner has an alternative remedy of filing a petition before the Ministry of Home Affairs, Government of India under Section 113(2) of the National Security Guard Act, 1986 which he has not exhausted and instead has approached this court directly.

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3. Learned counsel for the petitioner states that he has recently been engaged in the present case and having regard to the fact that the petitioner has not exhausted the remedy of filing a statutory petition against the impugned order dated 19.10.2016 before the Authority as provided under Section 113 of the NSG Act, 1986, he may be permitted to withdraw this petition while reserving the right of the petitioner to file a petition under Section 113 of the National Security Guard Act, 1986. He, however, states that the timeline for filing the petition being three months reckoned from 25.10.2016, the date on which the petitioner had received a copy of the impugned order dated 19.10.2016 and the said period having already expired, the respondents are likely to reject his petition on the ground of limitation, without going into the merits of the matter.

4. Counsel for the respondent submits on instructions that the respondents shall not raise any objection on the aspect of limitation and instead, consider the petition proposed to be filed by the petitioner, on merits and decide the same.

5. Accordingly, the present petition is dismissed as withdrawn with liberty granted to the petitioner to file a statutory petition under Section 113 of the National Security Guard Act, 1986, within four weeks. As and when the said petition is received, the competent authority shall consider the same and take a decision by passing a speaking order under written intimation to

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the petitioner. If aggrieved by the decision taken by the competent authority,
the petitioner shall be entitled to seek legal recourse.

6. The petition is disposed of along with the pending applications.



HIMA KOHLI, J



REKHA PALLI, J

NOVEMBER 16, 2017

na/ap