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

+ WP(Crl.) 946/2017

BHERU LAL

..... Petitioner

Through: Mr. Shailender Dahiya, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rahul Mehra, Sr. Standing Counsel
with Ms. Richa Kapoor, ASC, Mr. Jamal Akhtar
and Ms. Smriti Dutta, Advocate for the State with
ASI Virender Singh.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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12.04.2017

Pursuant to the directions given in the order dated 11.04.2017, Mr. B.K. Puri, Dy. Secretary (Home), Govt. of NCT of Delhi has appeared as the nominee of the Secretary (Home), Govt. of NCT of Delhi. The learned standing Counsel (Crl.). tried to explain the reasons for default, they primarily being the protracted process that is required to be undertaken particularly if the request concerns inquiry beyond the territorial jurisdiction of Delhi, which most of the time results in delay occurring and the time-line indicated in the Parole / Furlough Guidelines, 2010 being generally breached. He submitted that he is in touch with the concerned authorities in the Government and better systems are expected to be put in position such that the requests for release of parole / furlough are dealt with within the WP(Crl.) 946/2017

period envisaged in the guidelines so that flooding of the court with writ petitions for similar relief on account of absence of action by the Government can be avoided.

The learned standing counsel at the same time assured that in cases where the writ petitions are filed, *inter alia*, on the averment that the request for such relief made to the Government had not been properly responded to within the prescribed period, effort would be made for an appropriate decision to be taken expeditiously without further delay and the court is informed hopefully at the first effective hearing of the result of such petition.

In view of the above submission and assurances, no further directions at this stage are called for with regard to the procedure followed by the Government.

The petitioner stood trial on the charge for offence under Section 18 (b) of NDPS Act in the court of Special Judge in a case arising out of FIR no.214/12 of PS Crime Branch, Delhi and by judgment rendered on 28.02.2014, he was convicted and sentenced to rigorous imprisonment for 15 years with fine of Rs.1.5 Lakhs. He preferred an appeal, it being CrI. Appeal no.572/2014 which has been disposed of by this court by judgment dated 21.12.2016 modifying the sentence reducing the punishment to rigorous imprisonment for ten years with fine of Rs.1 Lakh.

The nominal roll indicates after his arrest in the said case on 01.09.2012 he has remained in custody ever since, not released even once. He has already undergone sentence for a period of four years

and over seven months. Though it is added in the nominal roll that the co-accused Narayan did not surrender to jail after dismissal of the appeal, it cannot be used as a reason against the petitioner. As per the nominal roll, conduct of the petitioner has been satisfactory.

The request made on 17.01.2017 for release on parole on the ground to file special leave petition before the Supreme Court and maintain social ties and social relations was rejected by the appropriate authority as per communication dated 10.04.2017.

The ground on which the petitioner seeks release now in these proceedings is the marriage of his son slated to be solemnized on 19.04.2017 at a place near Keer ki Chowki (Dhundiya), Tehsil Mavli, Distt. Udaipur, Rajasthan, the marriage party being expected to go to the bride's place at Village Ranchorpura, Tehsil Vallabnagar, Distt. Udaipur, Rajasthan.

The status report submitted by the ACP (Crime branch) confirms the above facts on the basis of inquiry conducted locally. The State, however, refers to the involvement of the petitioner in certain other crimes. It is at the same time fairly conceded that the involvement of the petitioner in other cases was for offences of comparatively lesser gravity, they generally being cases of hurt, the last being of 2012 vintage.

In the above facts and circumstances, it is a fit case where this court must exercise the discretion in favour of release of the petitioner on parole for a period of four weeks.

The petition is, thus, allowed. The petitioner shall be released

on parole for a period of four weeks subject to he furnishing personal bond in the sum of Rs.50,000/- with one surety in like amount to the satisfaction of the Superintendent Jail on the following conditions :-

- (i). The petitioner upon arrival at the native place, as aforesaid, shall report his arrival to the local police, handing over a copy of this order, and thereafter mark his attendance in the police station at least once a week.
- (ii). Prior to his release, he shall give the telephone numbers of self and of at least one other responsible family member besides that of the surety to the jail authorities and to local police.
- (iii). During the period of his release, he shall not come in contact with or try to influence any of the witnesses of the case in which he stands convicted or the cases which are still pending against him.
- (iv). During the period of release, he shall maintain peace and be of good behaviour not involving any criminal activity.
- (v). He shall surrender immediately on expiry of the period of release.

The writ petition is disposed of in these terms.

A copy of this order shall be transmitted to the jail authorities.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J

APRIL 12, 2017

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