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

+ **W.P.(CRL) 2061/2016**

RAJEEV @ DIWANJI

..... Petitioner

Through: Ms. Inderjeet Sidhu, Advocate.

versus

STATE

..... Respondent

Through: Mr. Rajesh Mahajan, ASC along with
SI Harpal Singh, PS- Pahar Ganj, for
the State.

+ **W.P.(CRL) 95/2017**

RAJIV

..... Petitioner

Through: Mr. K. Singhal & Mr. Prasanna,
Advocates.

versus

STATE NCT OF DELHI & ORS

..... Respondents

Through: Ms. Richa Kapoor, ASC along with
SI Ravinder Solanki & ASI
Chandveer Singh, Rohini Court
Lockup, 3rd Battalion, for the State.
Mr. Joginder Singh, CJ-02.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
10.02.2017

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W.P.(CRL) 2061/2016 has been filed by the petitioner to assail the

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order dated 08.06.2016 passed by the respondent declining the petitioner's application to seek parole. The parole application of the petitioner has been rejected on the ground that he is desperate criminal and Bad Character of the PS – Khajuri Khas. It is also stated that he may jump parole and commit similar crimes in future. The said order takes note of the fact that the petitioner was granted parole w.e.f. 11.07.2013 to 11.08.2013 and he jumped the same and was re-arrested on 15.06.2014. He is involved in two other cases mentioned in the order. The petitioner also seeks a direction that the petitioner be released on parole for a period of three months. The ground for seeking parole is the terminal illness of the petitioner's wife.

The petitioner has filed an additional affidavit placing on record the documents to show the medical condition of his wife. Learned counsel for the petitioner has submitted that the reason for the petitioner jumping parole was the terminal illness of his wife.

Status report has been filed, which verifies the petitioner's address and the medical condition of the petitioner's wife. It is reported that she is suffering from terminal disease of pancreas and she is taking treatment since 2013-14, which is still continuing.

Learned counsel for the petitioner submits that the petitioner's brother is serving in Delhi Police and he is willing to stand surety to ensure that the petitioner surrenders at the end of the parole that this Court may grant.

The latest nominal roll on record reflects the position as on 19.12.2016. The same shows that the petitioner is undergoing a life sentence in case FIR No.542/2003 under Section 302/ 364 IPC at PS – Pahar Ganj. As on 19.12.2016, the petitioner has undergone 11 years, 3 months and 16 days of incarceration. The said nominal roll also reflects that the

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petitioner has been subjected to punishment on 03.08.2016 for recovery of Tobacco. The petitioner is shown to be involved in two cases, namely FIR No.24/2014 under Section 25 of the Arms Act and Section 224 IPC registered at PS – Special Cell; and the FIR No.434/2013 under Section 365 IPC registered at PS – Kanjhawala in which the petitioner was acquitted on 08.12.2016.

A further status report listing 9 cases in which the petitioner has been involved earlier, which includes the present case, has been filed. Since the punishment imposed on the petitioner on 03.08.2016 for recovery of Tobacco would be a stumbling block for the petitioner to obtain parole, the petitioner has preferred W.P.(Crl.) No.95/2017 to assail the said punishment. However, considering the minor nature of misconduct alleged against the petitioner, which is also disputed by the petitioner, in my view, the same cannot come in the way since the said punishment has already been undergone.

Learned counsel for the petitioner has submitted that there are several precedents on the aspect of grant of parole to a convict, who may have jumped parole earlier. She has placed reliance on the orders passed in W.P.(Crl.) Nos. 1857/2015, 1200/2007 & 1668/2013.

Since the petitioner's own brother, who is serving in the Delhi Police has undertaken to furnish his own personal surety to ensure that the petitioner shall duly surrender at the end of parole period and shall not indulge in criminal activity while he is released on parole, and considering the precarious condition of the petitioner's wife, who is found to be suffering from terminal illness relating to pancreas, W.P.(Crl.) No. 2061/2016 is allowed in the peculiar circumstances of the case. The

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petitioner is directed to be released on parole for a period of two weeks subject to:

- i) his furnishing personal bond with one surety in the sum of Rs.1 Lakh, which shall be furnished by his brother Kapil Dev, who is serving with Delhi Police, to the satisfaction of the Jail Superintendant.
- ii) he shall provide his mobile phone number to the Jail Superintendent at the time of his release, which shall be kept in working condition at all times. The same shall not be changed without prior intimation to the Jail Superintendent;
- iii) he shall report at the local police station to mark his attendance on every second day at 11:00 a.m. during the period of parole;
- iv) he shall duly surrender at the end of the period of parole; and
- v) he shall also not indulge in any criminal activity while on parole.

In view of the aforesaid, learned counsel for the petitioner does not press W.P.(Crl.) No. 95/2017. Accordingly, W.P.(Crl.) No. 2061/2016 is allowed in the aforesaid terms and W.P.(Crl.) No. 95/2017 is dismissed as withdrawn.



VIPIN SANGHI, J

FEBRUARY 10, 2017

B.S. Rohella