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

+ **W.P.(CRL) 1150/2017**

KAPIL RAVI DASS

..... Petitioner

Through: Mr. Vikas Padora, Advocate

versus

STATE

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel
with Mr. Jamal Akhtar, Advocate with SI Naveen,
PS Subzi Mandi.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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21.04.2017

The petitioner stood trial in the criminal case arising out of report submitted on conclusion of investigation into FIR no.362/1999 for offences under Sections 376, 506 Part II of IPC of Police Station Subzi Mandi and by judgment dated 28.07.2004, he was convicted and sentenced to rigorous imprisonment for 7 years with fine of Rs.6,000/-. He preferred criminal appeal no.821/2004 which was dismissed by this court by judgment dated 15.03.2016. As per the nominal roll dated 28.03.2017 received from Superintendent, Central Jail-14, the petitioner has actually undergone imprisonment for a period of over 3 years 10 months, and would also be entitled to remission which he stated to have been earned for over one year.

Though the report on his conduct in jail is stated to be satisfactory, he having applied for release on parole on 21.09.2016 on the ground that he has to prefer the Special Leave Petition before the Supreme Court of India, the said request was earlier turned down by the Government on 17.11.2016 for the reason that requisite police verification report could not be obtained.

He preferred criminal writ petition [WP(Crl.) 299/2017] which was decided by this court by order dated 17.11.2016 calling upon the State Government to reconsider with the observation that non receipt of the report could not be treated as an adverse circumstance against the petitioner. The State Government after reconsideration has once again rejected the prayer by communication dated 03.03.2017 observing that the stay of the petitioner in the prison has not been for such long duration as to assess his conduct.

The status report submitted by SHO of police station Subzi Mandi has been submitted. The learned standing counsel (Crl.) submits he leaves the matter to the discretion of the court.

After dismissal of the criminal appeal by this court on 15.03.2016, the petitioner is entitled to take necessary steps to prefer special leave petition. It is for this reason that he had applied for release on parole in September 2016. It is really unfortunate that instead of facilitating the pursuit of such remedy, the State Government has taken the position as noted above.

In all fairness, the petitioner deserves release on parole for a short period so that he can engage a counsel of his own choice and

pursue the remedy before the Supreme Court. Therefore, the petition is allowed with the direction that the petitioner shall be released on parole for a period of two weeks subject to the following conditions :-

- (i). He shall furnish personal bond in the sum of Rs.10,000/- with one surety in like amount to the satisfaction of the Superintendent Jail.
- (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 in any criminal activity.
- (v). He shall not leave the National Capital Territory of Delhi during the period of parole, without prior permission of this court.
- (vi). He shall surrender before the jail authorities on the expiry of the period of parole.

The petition stands disposed of accordingly.

R.K.GAUBA, J

APRIL 21, 2017

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