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* **IN THE HIGH COURT OF DELHI AT NEW DELHI+**
W.P.(CRL) 1536/2017

MOHIT Petitioner
Through: Mr. Sachin Kumar Lakra, Advocate.

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Avi Singh, ASC for the State with SI
Gajender, PS-Alipur.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
% **07.07.2017**

The present petition has been filed by the petitioner *inter alia* praying for issuance of writ of mandamus granting parole to the petitioner for a period of three months for filing SLP before the Supreme Court of India, to take care of his family and reconnect & re-establish social ties.

Status report has been filed by the State.

Perusal of the nominal roll of the petitioner shows that he is undergoing a sentence of 10 years Rigorous Imprisonment for offence under Section 376 IPC, 7 years Rigorous Imprisonment for offence under Section 365 IPC and 7 years Rigorous Imprisonment for offence under Section 366 IPC with fine of Rs.40,000/- in case FIR No. 39/2011 under Section 366/363/376 IPC registered at PS – Alipur.

The petitioner has already undergone 3 years 5 month and 7 days of incarceration and also earned remission of 5 months and 28 days as on 30.06.2017. The unexpired portion of the sentence is 6 years 25 days (IFP). The jail conduct of the petitioner has been found to be unsatisfactory in view of jail punishment dated 04.12.2016.

The appeal preferred by the petitioner was dismissed vide order dated 10.01.2017 of this Court.

The status report filed by the State goes to show that the address provided by the petitioner has been verified to the extent that the family of the petitioner is residing at the given address i.e. H. No. 196, Village Hamidpur, Delhi.

Learned APP for the State opposed the grant of parole to the petitioner contending that on one occasion, the petitioner was found roaming outside of his ward and on search loose tobacco was recovered from his possession. This conduct of the petitioner was found to be unsatisfactory in view of violation of the Jail Rules.

Heard.

“Parole/Furlough: Guidelines 2010” have been submitted in Court by the learned APP and the same have been perused. The relevant portion of Clause 12 of the said Guidelines states that only those prisoners/convicts would not be eligible for being released on parole, who have been found to be instigating serious violation of prison discipline amongst others.

The petitioner was admittedly found roaming outside of his ward on one occasion. This kind of indiscipline has been reported against the petitioner once during the period of his incarceration of about 4 ¹/₂ years

and therefore, it shall not stand in the way of the petitioner being granted parole. Further, it is also pertinent to note that the petitioner was previously granted bail as well as interim bail during the course of trial. It is found that the petitioner had not misused the liberty granted to him during the period he was on bail and duly surrendered before the Court as and when directed.

It is well settled that the grant of parole is essentially a discretionary power. Taking into account the aforesaid facts and circumstances, there is no reason to refuse the grant of parole to the petitioner for filing a Special Leave Petition before the Supreme Court of India to take care of his family and re-establish his social ties.

In these circumstances, the present petition is allowed. The petitioner is directed to be released on parole for a period of three weeks, subject to:

- i) his furnishing personal bond with one local surety in the sum of Rs.25,000/- to the satisfaction of the Jail Superintendent;
- ii) he shall report at the concerned police station to mark his attendance on every Friday at 11:00 a.m. during the period of parole;
- iii) he shall duly surrender at the end of the period of parole;
- iv) at the time of his surrender, he shall submit proof of filing the Special Leave Petition before the Supreme Court, to the Jail Superintendent;
- v) 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;
- vi) he shall also not indulge in any criminal activity during the period of parole.

Copy of this order be given dasti, as prayed.

A copy of this order be communicated to the Jail Superintendant concerned.

SANGITA DHINGRA SEHGAL, J

JULY 07, 2017

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