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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 19.09.2017

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W.P.(CRL) 1647/2017

BHARAT KUMAR @ MANOJ @ MANNU Petitioner
Through Mr.K. Singhal, Adv.

versus

STATE Respondent
Through Mr.Avi Singh, ASC for State
with Ms.Megha Bahl, Adv. with SI Sandeep
Kumar, PS Palam Village.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (Oral)

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 Code of Criminal Procedure, 1973 for the issuance of writ of mandamus to release him on parole for 60 days to re-establish and maintain social ties.
2. Status report has been filed.
3. Nominal roll has already been received from the concerned Jail Superintendent, Rohini.
4. Learned counsel for the petitioner submits that in case the petitioner is released on parole, he would reside with his sister Smt.Mamta at House No.14/384, Block-14, Dakshinpuri

Extension, Dr. Ambedkar Nagar, South Delhi.

5. The said address has been verified by the State and found to be correct. It is also reported that the owner of the house Smt.Beela Devi, who is mother-in-law of the sister of the petitioner, has no objection in case the petitioner resides there during the period of parole.
6. Learned ASC for State points out that the parole application of the petitioner was rejected by the competent authority vide order dated 2nd March, 2017 for the following reasons:
 - “1) Para 12.5 of Parole/Furlough Guidelines: 2010 which provides that “Parole would ordinarily be not granted except, if in the discretion of the competent authority special circumstances exist for grant of parole”
 - (a) If the prisoner is convicted of murder after rape. The convict is undergoing imprisonment in a case of murder, kidnapping and rape of a minor girl aged 6 years.
 - 2) Adverse police report which stated that the family of the victim is residing in front of the house of the petitioner. The parents of the petitioner has already extended threat to the family of the victim. There is no family member who have proper control over the convict. Convict may jump the parole.”
7. Learned ASC submits that since the petitioner was convicted for rape and murder of the victim who was minor girl of 6 years, he should not be released on parole.
8. As per the nominal roll, the petitioner was convicted under Section 363/376/302 IPC, PS Palam Village, vide FIR

No.230/2010 by the learned Additional Sessions Judge, Dwarka Court, Delhi, and he was awarded death sentence by the trial court. His death sentence was commuted to life imprisonment by this Court in Crl.Appeal No.1662/2013 decided on 18.09.2014. It was directed that no remission would be granted till convict completes 25 years of actual imprisonment.

9. Learned counsel for the petitioner points out that earlier also the petitioner was released on parole by this Court in W.P. (Crl.) 655/2015 for a period of two weeks by order dated 08.09.2015.
10. As per the nominal roll, the overall conduct of the petitioner has been satisfactory.
11. Hence, in the circumstances of the case, the petitioner be released on Parole for a period of three weeks from the date of his release on the following terms and conditions: -
 - (i) the petitioner shall furnish his personal bond in the sum of Rs.40,000/- with two sureties in the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate.
 - (ii) the petitioner shall maintain good conduct and behaviour during the period of his release.
 - (iii) the petitioner shall provide mobile numbers of the sureties which shall be kept in active mode and shall not be changed without the permission of the Court.

(iv) the petitioner shall report his presence to the concerned SHO, P.S. Ambedkar Nagar, every Monday and Thursday, at 11:00 AM.

(v) He shall not visit his parents and the family of the victim or their area of habitation during the parole period.

(vi) He shall surrender to Jail Superintendent immediately after expiry of parole period.

12. The petition is disposed of accordingly.
13. Copy of this order be sent to the Jail Superintendent.
14. Copy of this order be given *dasti*.

VINOD GOEL, J.

SEPTEMBER 19, 2017/jitender