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

+ **W.P.(CRL) 3302/2016**

**VIJAY KUMAR**

..... Petitioner

Through: Mr. Sarfaraz Khan, Advocate along  
with petitioner in person.

versus

**STATE (NCT OF DELHI) & ANR.**

..... Respondents

Through: Ms. Kamna Vohra, ASC along with  
SI Yogendra Kumar, PS-Kapashera,  
for the State.

**CORAM:**  
**HON'BLE MR. JUSTICE VIPIN SANGHI**

**ORDER**  
**30.01.2017**

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The petitioner has preferred the present petition to seek a direction that the petitioner be released on parole till the determination of the representation of the petitioner for his premature release by the Government of NCT of Delhi (GNCTD)/ Sentence Reviewing Board (SRB).

The nominal roll has been called for and has been received. The same shows that the petitioner is serving a life sentence in case FIR No.168/2001 under Sections 302/ 386/ 511/ 34 IPC registered at PS – Kapashera. The petitioner has undergone actual sentence of 15 years, 3 months and 17 days as on 24.01.2017, and has also earned remission of 4 years, 8 months and 28

days. The nominal roll also shows that the petitioner has been released on furlough on several occasions from 22.10.2013 onwards. He has been released on parole on 5 occasions beginning 01.12.2010 onwards. Pertinently, the nominal roll shows that the petitioner is presently on furlough for a period of two weeks granted by the DG(P) on 20.01.2017. Thus, the petitioner is on furlough till 03.02.2017 and would be required to surrender on 04.02.2017.

The submission of learned counsel for the petitioner is that the case of the petitioner is due for consideration by the SRB. On an earlier consideration, his case has been rejected by the SRB. It is in this background that the aforesaid prayer has been made by the petitioner.

In support of his submission, learned counsel for the petitioner has sought to place reliance on several orders passed by this Court, including in W.P. (Crl.) No.2260/2015 titled *Yogender Kumar Vs. State (Govt of NCT of Delhi) and Another*; and W.P. (C.) No.1052/2016 titled *Raj Kumar @ Raju Vs. State*.

The aforesaid decisions, in my view, do not advance the case of the petitioner. The Supreme Court in a recent decision, which has not been taken into consideration by the aforesaid decisions of the High Court, in *State of Gujarat and Another Vs. Lal Singh @ Manjit Singh & Others*, Crl.Appeal No.171/2016 decided on 29.06.2016, has thrown light on the aforesaid aspect. In the said case, the Gujarat High Court, while setting aside the decision of the SRB and directing reconsideration of the case of the respondent/ convict in that case by the SRB on the basis of the observations made by the Court, released the respondent convict on parole for a period of 3 months. The Supreme Court not only set aside the judgment of the

Gujarat High Court on merits by holding that the decision of the SRB is premised on germane considerations, it also held that the High Court could not have directed release of the respondent convict on parole for a period of three months without any basis.

Merely because the petitioner may have completed 20 years of sentence, which includes the remission period earned by him, does not mean that the petitioner is entitled to automatic premature release by the SRB. It is for the SRB to consider the case of the petitioner on its own merits and arrive at its decision. There is no hard & fast rule that in every such case the convict is bound to be released prematurely. Consequently, the relief sought in this petition cannot be granted to the petitioner. The petitioner cannot seek to achieve indirectly what he cannot ask for directly, namely the direction to the SRB to release him prematurely.

This Court has also considered the said issue in *Shashi Shekhar @ Neeraj Vs. State of the NCT of Delhi and Others*, W.P. (Crl.) No.1311/2016 in the light of the guidelines of the SRB for premature release.

In view of the aforesaid, the petition is dismissed.

In case the petitioner has sufficient cause and makes out a deserving case for grant of parole under the guidelines, his application would be considered on merits by the State.

**VIPIN SANGHI, J**

**JANUARY 30, 2017**

*B.S. Rohella*