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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 18.09.2017

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W.P.(CRL) 1872/2017

PRABHAT SINGH

..... Petitioner

Through Mr.Puneett Singhal, Adv.

versus

STATE

..... Respondent

Through Mr.R.S. Kundu, ASC for State
with SI Davinder Kumar, PS SIU/Crime
Branch, Kotwali.

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.
2. Status report has been filed.
3. It is submitted that the petitioner was ordered to be released on parole by the competent authority vide order No.F.18/333/2014/HOME(G)/2466 dated 27th April, 2017 for a period of four weeks, subject to certain terms and conditions including that he shall be released only after the surrender of the other co-accused, who is on parole.

4. The learned ASC points out, on instructions from the IO, that the address of the petitioner where he would reside in case he is released on parole has been verified and found to be correct. Learned ASC submits that the co-convict namely Sandeep s/o Sukhir, who was released on parole from Central Jail No.4, did not surrender after expiry of the parole period and for this reason, the petitioner should be allowed to be released on parole.
5. A perusal of the nominal roll shows that the petitioner was convicted under Section 364A/343/353/307/120B/34 IPC, PS New Ashok Nagar, vide FIR No.175/2001 by the learned Additional Sessions Judge, Karkardooma Court, Delhi, and he was sentenced on 25th September, 2009 to undergo rigorous imprisonment for life with fine of Rs.15,000/- and in default 17 months simple imprisonment. He had undergone imprisonment for 11 years, one month and twenty five days. The nominal roll further reflects that he was released on furlough nine times for various spells during the years 2014 to 2017 by the DGP. He was released on parole for four weeks with effect from 20th December, 2014 to 18th January, 2015 and from 03.03.2016 to 31.03.2016 by this Court. His overall conduct in the jail has always been satisfactory.
6. Simply because the co-convict has jumped the parole and has not surrendered after expiry of the parole granted, the petitioner cannot be punished for the conduct of the co-convict. For this

reason, the fundamental rights of the petitioner cannot be emasculated. Moreover, the petitioner has no control over his co-convict who had jumped the parole.

7. Hence, in the circumstances of the case, the petitioner be released on Parole for a period of four 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.4,000/- with one surety in the like amount to the satisfaction of the concerned Jail Superintendent.

(ii) the petitioner shall maintain good conduct and behaviour during the period of his release.

(iii) the petitioner shall provide mobile number of the surety 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. Shikarpur, District Bulandshahar, U.P. every Monday and Thursday.

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

8. The petition is disposed of accordingly.
9. Copy of this order be sent to the Jail Superintendent.
10. Copy of this order be given *dasti*.

VINOD GOEL, J.

SEPTEMBER 18, 2017/jitender