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

+ W.P.(CRL) 2013/2017

MOHD ALAM

..... Petitioner

Through: Mr. Sanjiv Sarkar, Advocate.
versus

STATE

..... Respondent

Through: Ms. Richa Kapoor, ASC for State with
Mr. Varun Nagrath, Advocate.
SI Tinku Shokeen, PS Punjabi Bagh,
Delhi.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

24.10.2017

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The petitioner is aggrieved by order dated 29.05.2017 passed by the competent authority whereby his prayer for being released on parole for re-establishing the social ties and for combating inner stress has been rejected, even though he has remained in jail for about 17 years by now.

The reason assigned by the competent authority for such rejection is that the petitioner is not entitled for parole as he is a Bangladesh National, who is involved in a case of murder in India. Any person who is not a citizen of India is not entitled to be released on parole in view of Para 12.4 of the Parole/ Furlough Guidelines, 2010.

Learned counsel appearing for the petitioner has pointed out that he has wrongly been projected as a Bangladesh National. In fact, it has been submitted, the petitioner was born in India and had been brought up by his parents in a Jhuggi, within the territorial limits of Delhi. At the time when

the petitioner was arrested, he was only 19 years of age. Later, while the petitioner was serving the sentence, his parents died and his Jhuggi also got destroyed in fire. In proof of the fact that the petitioner is an Indian citizen, he has submitted that his sister, who is also his pairokar viz. Hariya Begum, has been given Indian passport (passport no. N4029788). The passport of his sister bears the name of Abdul Salam as her father, who is the father of the petitioner as well.

It has further been submitted that one of the co-accused namely Jamal Mirza who is a Bangladesh National has been admitted to furlough by the competent authority. For apparently no correct reason, it has been argued, the petitioner is being denied such privilege. In order to show his bonafide, the petitioner is ready to offer her sister, who is an Indian citizen, as a surety. The petitioner shall, if released on parole, stay with his sister who has shifted her residence to Rithala.

The Nominal Roll indicates that the petitioner has remained in jail for about 17 years by now and has shown satisfactory conduct except for a minor punishment dated 16.01.2016. The Nominal Roll further indicates that one Nizam, another co-accused has been transferred to Bangladesh whereas one Mohammad Raju, another co-accused has already undergone the sentence and has been released on 20.04.2011.

Taking into account the period of the custody of the petitioner and the fact that the sister of the petitioner bears an Indian passport, this court is inclined to release the petitioner on parole for four weeks.

The petitioner is directed to be released on parole for four weeks, to be counted from the date of his release, on his furnishing of bond in the sum of Rs. 5,000/- with one surety, who would be his sister, viz Ms. Hariya

Begum, in the same amount, to the satisfaction of the Trial Court.

The petitioner shall, however, abide by the conditions listed below:-

- a) The petitioner shall surrender before the jail authorities on or before the end of the said period of parole.
- b) The petitioner shall not engage himself in any unlawful activity.
- c) The petitioner would not leave the National Capital Region of Delhi, without intimating the officer-in-charge of the concerned police station.
- d) He shall furnish his and his surety's mobile telephone numbers to the SHO of the concerned police station so that in case of necessity he could be tracked and his whereabouts could be ascertained.
- e) The petitioner shall get his presence marked by the Officer Incharge of PS, Punjabi Bagh (under which jurisdiction the offence had been committed) preferably on Mondays and Fridays at 11.00 AM.

In case, the petitioner flouts any one of the conditions, an application could be moved by the SHO for cancellation of his parole and for taking of coercive steps for securing his attendance.

With these observations, the petition is disposed of.

The order be communicated to the Superintendent of the concerned jail for compliance and record.

Dasti.

ASHUTOSH KUMAR, J

OCTOBER 24, 2017
NC