

\$~31.

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

+ **W.P.(CRL) 14/2017**

SOMNATH @ VICKY

..... Petitioner

Through: Mr. Sitab Ali Chaudhary, Advocate.

versus

STATE

..... Respondent

Through: Mr. R.S. Kundu, ASC for the State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

13.02.2017

%

The petitioner has preferred the present writ petition to assail the order dated 10.11.2016, whereby his application to seek parole so as to prefer a Special Leave Petition, has been rejected. He also seeks a direction that he be released on parole for a period of one month to be able to prefer a Special Leave Petition before the Supreme Court.

The petitioner is undergoing Rigorous Imprisonment of seven years in case FIR No.86/2009 under Section 395/ 397/ 482/ 412/ 34 IPC registered at PS – Rajouri Garden. His appeal was dismissed by this Court on 29.07.2016. He has undergone 4 years, 2 months and 28 days of incarceration and earned remission of 3 months and 25 days as on 08.12.2016. The jail conduct of the petitioner is stated to be satisfactory.

The petitioner is involved in three other cases. FIR No.1/2014 under Section 379/ 411/ 34 IPC has been registered against the petitioner at PS – Kirti Nagar; and FIR No.435/2015 under Section 380/ 457/ 411/ 34 IPC has been registered against the petitioner at PS – Kirti Nagar. In both these cases, he is on bail. He also stands convicted in case FIR No.92/2009 under Section 186/ 353/ 307/ 411/ 34 IPC and Section 25/ 27/ 54/ 59 of the Arms Act registered at PS – Vikas Puri. He was sentenced to three years Rigorous Imprisonment in the said case. It is not clear whether the said sentence has been undergone completely, or not.

The status report discloses that the family of the petitioner was residing in Jhuggi No.43, T Huts, Near Fire Station, Kirti Nagar. But the family of the petitioner has left the said address about two years ago and his mother came back to the Jhuggi around 01.12.2016 and has been residing there for the last 20-22 days. Now, the mother and daughter-in-law of the convict are residing at the said address.

One of the reasons for rejection of the petitioner's application was that he had not undergone one year imprisonment excluding the period covered by the remission as a convict. That condition does not survive any more as on date. The other reason given was that there is possibility of threat to life of the convict from other criminals and also there are threats from the convict to the law & order situation. The aforesaid aspects can be addressed by imposing adequate conditions on the petitioner's movement.

Accordingly, the impugned order is quashed and the petitioner is directed to be released on parole for a period of one month subject to:

- i) his furnishing personal bond with two local sureties in the sum of Rs.10,000/- each to the satisfaction of the Jail Superintendent;

- ii) 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;
- iii) he shall report at the local police station to mark his attendance on every Monday at 11:00 a.m. during the period of parole;
- iv) he shall duly surrender at the end of the period of parole;
- v) he shall not leave Delhi during the period of his parole;
- vi) he shall also not indulge in any criminal activity while on parole; and
- vii) he should have obtained bail/ parole/ furlough in other cases in which he is involved.

FEBRUARY 13, 2017
B.S. Rohella

VIPIN SANGHI, J