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

+ W.P.(CRL) 2607/2017 & CrI.M.B.1614/2017 (Suspension of Sentence) & CrI.M.A.14927/2017 (Stay), CrI.M.A.14928/2017 (Exemption) and CrI.M.A.14929/2017 (Directions)

RAJIV CHANDRAKANT SHAH THR.

HIS SON MOHIT RAJIV SHAH Petitioner

Through: Mr.Mohit Rajiv Shah, son of the petitioner.

versus

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..... Respondent

Through: Mr.Ajay Digpaul, CGSC with Ms.Mohita, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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26.09.2017

The petitioner, Rajiv Chandrakant Shah has been represented through his son Mohit Rajiv Shah.

The present petition has been filed seeking a direction to the respondent/Central Government to discharge the petitioner in terms of Section 24 of the Extradition Act, 1962, which reads as hereunder:-

24. Discharge of person apprehended if not surrendered or returned within two months-if a fugitive criminal who, in pursuance of this Act, has been committed to prison to await his surrender or return to any foreign State is not conveyed out of India within two months after such committal, the High Court, upon application made to it by or on behalf of the fugitive criminal and upon

proof that reasonable notice of the intention to make such application has been given to the Central Government, may order such prisoner to be discharged unless sufficient cause is shown to the contrary.”

The mandate of Section 24 is that if any person is committed to prison to await his surrender or return to a foreign State and he is not conveyed out of India within two months after such committal, he shall be discharged. For such an order to be passed, an application is required to be filed before the High Court after giving reasonable notice to the Central Government. The mandate of the Section is that if sufficient cause is not shown by the Central Government for not conveying the accused out of India within the aforesaid statutory period of two months, he shall be discharged.

It has been submitted on behalf of the petitioner that despite the orders of stay by this Court in various proceedings, the petitioner has not been conveyed out of India within the statutory period of 60 days.

Mr. Ajay Digpaul, learned Central Government Standing Counsel, however, has submitted that the petitioner was committed to prison on 22.04.2017. By an order of a bench of this Court on 02.05.2017 in W.P(Crl) No.1293/2017, it was directed that the petitioner would not be extradited till 15.05.2017. On 15.05.2017, the writ petition referred to above was disposed of with a direction to the Central Government to give opportunity to the petitioner of two weeks in the event of taking a decision to extradite him so as to enable him to take recourse to the appropriate remedies in law before the appropriate forum. The period of two weeks was directed to begin immediately following the day the order of the Central Government would be served on the petitioner.

It has then been submitted on behalf of the Central Government/respondent that a writ petition No.1831/2017 was filed by the petitioner in which an interim order was passed on 28.06.2017 directing that the petitioner be not extradited till 21.07.2017 i.e. till the date on which the aforesaid petition was directed to be listed for further hearing. The petition was dismissed by judgment dated 04.08.2017. In the aforesaid judgment, it was observed as follows:-

“29. From the perusal of the records, it appears that when on 16.06.2017, the report of the Magistrate was accepted, a notice was given to the petitioner in terms of the order passed by this Court in W.P (Crl.) No.1293/2017, to allow the petitioner to take recourse to appropriate remedies before he is conveyed/surrendered to the requesting State. It was because of the aforesaid two orders namely the order dated 15.05.2017 passed in W.P(Crl.) No.1293/2017 and interim order dated 28.06.2017 passed in the present writ petition which has prevented the petitioner from being extradited to the requesting State.

30. Thus taking into account the aforesaid facts namely inquiry having been conducted in accordance with law and as mandated under Section 7 and the decision of the Central Government under Section 8, no interference is required either with respect to the inquiry report of the learned ACMM recommending the extradition of the petitioner or the decision of the Central Government in accepting such report.”

However, this Court, taking into account that the petitioner had participated in the extradition proceedings for about 15 years and had an ailing mother to be looked after, had directed that the petitioner be given four weeks time to avail himself of the appropriate remedies against his

extradition before he is extradited to the requesting State. It was also made clear that the period of four weeks would run from the date of pronouncement of the judgment i.e. from 04.08.2017.

The aforesaid judgment was challenged before the Supreme Court of India vide SLP (Crl) No.6300/2017 which too was dismissed on 01.09.2017.

Thus the period of 60 days was covered under the period of stay granted by the Court in various writ petitions. There is still time left, if said period is excluded from the date of committal of the petitioner to custody after the Magisterial enquiry, for his extradition to the requesting State.

Considering the aforesaid facts, this Court is of the view that the statutory period of 60 days within which an accused is to be conveyed to the requesting State has not expired.

As such, the present petition seeking discharge under Section 24 of the Extradition Act, 1962 is dismissed.

A copy of this order be given dasti under the signature of the Court Master.

ASHUTOSH KUMAR, J

SEPTEMBER 26, 2017

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