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

+ W.P.(CRL) 2884/2017

KHALID MEHMOOD

..... Petitioner

Through: Mr.Jatin Rajput, Advocate.

versus

STATE

..... Respondent

Through: Mr.Rahul Mehra, Standing Counsel for
State with SI Shailendra Kumar Singh, PS
Gokalpuri, Delhi.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **13.10.2017**

1. Notice. Mr. Mehra, learned standing counsel, who appears on an advance copy having been served, accepts notice.
2. The petitioner has invoked the writ jurisdiction of this court under Article 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.PC') for custody parole to enable him to visit Pakistan High Commission at Chanakya Puri, New Delhi to collect relevant documents to submit the same before Sentence Review Board (in short 'SRB')
3. Learned counsel for the petitioner submits that earlier on two occasions, his request for custody parole was allowed by this court on similar grounds and he was taken to Pakistan High Commission. He submits that since the petitioner could not obtain the necessary documents and legal assistance from Pakistan High Commission, he

may be granted 06 hours of custody parole so that the relevant documents can be collected by him for forwarding the same to the SRB for their consideration for his premature release.

4. Mr. Mehra, learned standing counsel for the State, vehemently opposes the request of the petitioner. He refers to the copy of the order dated 02.02.2017 passed in W.P.(Crl.) 2263/2016 by this court declining similar relief for custody parole for 08 hours to obtain certain documents from Pakistan High Commission for submitting the same to the SRB.
5. I have heard the learned counsel for the petitioner and learned standing counsel for the State.
6. Admittedly, the petitioner is undergoing life sentence after being convicted in a case registered against him vide FIR No. 79/1994, PS Gokalpuri under Sections 3(1), 3(3), 3(5), 4 and 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (in short 'TADA Act').
7. Here it will be relevant to refer the order dated 02.02.2017 passed by this court in W.P. (Crl.) 2263/2016, which reads as under: -

“The petitioner has preferred the present petition to seek custody parole for a period of 8 hours to be able to visit the Pakistan High Commission and to collect the relevant documents so that his case may be forwarded to the Sentence Review Board (SRB) for review.

The status report has been filed by the State. The petitioner is undergoing life sentence upon being convicted in case FIR 79/1994 u/s 3/4/5 of TADA Act registered at PS Gokalpuri. As per the status report, the petitioner is a high risk prisoner of foreign origin. On this ground, the present petition is opposed by the State.

The petitioner having been convicted of offences under the TADA Act, I am not inclined to allow the present petition since it is not clearly stated as to why it is necessary for the

petitioner to visit the Pakistan High Commission and that too for a period of 8 hours. The petitioner is a Pakistani national. In case he desires any document, he can always write to the Pakistan High Commission and such a communication can be communicated to the Pakistan High Commission through the State. The response of the Pakistan High Commission can be collected and forwarded to the petitioner. Even otherwise, it is open to the concerned officers from Pakistan High Commission to make a jail visit and meet the petitioner in Delhi.

Looking to the nature of the offence; the fact that the petitioner is a Pakistani national and the fact that the country continues to face terrorist attacks - which are officially claimed to be of Pakistani origin and sponsored by the State of Pakistan, I do not consider it in public interest to grant even custody parole to the petitioner, and that too for a period of 8 hours, as prayed for.

In case the petitioner desires that any communication be sent to the Pakistan High Commission – only in relation to the documents that he requires for pursuing his application before the SRB, the same may be communicated to the Pakistan High Commission through the State, and the response of the Pakistan High Commission, if any, channelized through the State shall be communicated to the petitioner, provided the same is in relation to documents that the petitioner requires for pursuing his case before the SRB.

The petition is, accordingly, dismissed.”

8. There is no change in the circumstances after passing of the order dated 02.02.2017 by this court. The petitioner is a Pakistan national and our country still continues to face terrorist attacks which are originated and sponsored by Pakistan. Hence, it would not be in the public interest to grant custody parole to the petitioner.
9. As directed by the order dated 02.02.2017 that in case the petitioner desires any copy of the documents, the same may be requested by him by sending necessary communication to Pakistan High Commission

through the Jail Superintendent and in response, the Pakistan High Commission, if so willing, may send those documents through the State to the petitioner, if the same relate to consideration for release of the petitioner by the SRB.

10. The petition is disposed of accordingly.

VINOD GOEL, J.

OCTOBER 13, 2017

"shailendra"