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

+ W.P. (CRL.) 1844/2018

DR. SATYAVIR SINGH RATHI

..... Petitioner

Through: Mr.Suraj Rathi, Mr.Siddharth Singh,
Advocates

versus

STATE

..... Respondent

Through: Mr.Rajesh Mahajan, ASC for State
with SI Rahul Singh, PS Connaught Place

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

08.06.2018

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Crl.M.A.11376/2018

Exemption allowed subject to all just exceptions.

W.P.(Crl.) 1844/2018

The petitioner has moved the present petition for setting aside Condition No.7 of the Parole order dated 31.05.2018, which reads as under:

“7.The convict may be released only after the surrender of any of the other co-accused, who is on parole, if any.”

The argument advanced by the counsel for the petitioner is that the petitioner has been granted parole vide order dated 31.05.2018 and because of the condition aforementioned, he is not likely to be released as the co-accused has been released today. Therefore, the petitioner has moved the present petition for the waiving of the said condition.

On the other hand, learned ASC for State has produced the order of the co-accused already released today and granted parole for the period of

four weeks vide order dated 8th May, 2018, as he has fulfilled the requisite formalities, i.e. furnishing of the bail bond etc. as a result, he has been released today. He further argued that since the co-accused so released was granted parole earlier, so the earlier order is to be implemented.

The order dated 08.05.2018 in favour of co-convict has been passed much earlier, whereas the present order has been passed on 31.05.2018. So, the petitioner could only be released after availing of parole of four weeks by the co-convict.

Undisputedly, the petitioner was well aware of the order dated 08.05.2018 passed in favour of the co-convict and of his release and it has been so mentioned before this Court today. He was also aware that a similar condition is also part of the order dated 08.05.2018. The order passed in the present case of 31.05.2018 and it has been brought before this Court today only. The relaxation sought in the present petition would be contradictory to the guidelines issued and the condition in both the orders dated 08.05.2018 and 31.05.2018 (in favour of the petitioner) with the purpose to have both the convicts out of parole during the same period. It would not be out of context to mention that the bail bonds have been furnished by the co-convict, who has earlier been granted parole vide order dated 08.05.2018, after the order passed in favour of the petitioner on 31.05.2018.

I found substance in the submission made by the learned ASC and am of the considered view that the petitioner would be entitled for release on surrender of the co-convict and no relief can be granted to the petitioner.

Before parting with the order, it would be pertinent to quote condition no.13 of the Parole/Furlough Guidelines 2010, which reads as under :

“13.If there are more than one convicts in a case who are lodged in the same prison, the co-accused convicts would not be released simultaneously except upon special circumstances to be mentioned in the order granting parole.”

This Court is of the considered opinion that so far as condition no.13 of the Guidelines is concerned, the same seems to have rational approach, but the fact remains that while implementing the same, relief granted to one convict is being affected by the parole order granted earlier to the other convict. Thus, the competent authority is hereby directed to implement the guidelines as under :

(i)While dealing with the application of a convict for the grant of parole, it would be considered whether any such relief of parole is already in operation in favour of co-convict or not.

(ii)While granting the relief of parole to any convict, the competent authority shall fix the limitation/outer limit for the operation of the said order.

(iii)The relief granted subsequently to a co-convict shall be made operative only after the date of expiry of the earlier order and it would be so specified in the order itself.

(iv)In case of a second convict, if a parole order is passed earlier, it shall be operative only from the date when the order of the first convict ceases to operate.

The above directions are necessary for proper implementation of the guidelines mentioned above. The same would also be in the interest of every individual convict.

The present petition is dismissed in view of the above mentioned observation.

Copy of this order be sent to the jail authorities to ensure proper implementation of the same.

Dasti under the signatures of the Court Master.

P.S.TEJI, J

JUNE 08, 2018
pk/dd