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

+ LPA 669/2018

ANIL KOTHARI JAIN Appellant
Through: Ms. Neha Kapoor, Adv.

versus

STATE OF NCT OF DELHI Respondent
Through: None.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
03.12.2018

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CM APPL. 50462/2018 (*exemption*)

Allowed, subject to just exceptions.

LPA 669/2018

1. Seeking exception to an order passed by the learned writ court on 15.11.2018 in W.P.(CRL.) 3462/2018 refusing grant of extension of parole to the appellant, this appeal has been filed under Clause 10 of the Letters Patent.
2. Appellant had sought extension of parole to get his left knee replacement surgery done. However, the same has been rejected. During the period of 11 months the appellant has been on parole for a period of 186 days on one pretext or the other. Apart from dismissing the petition on such consideration, a cost of ₹10,000/- has been imposed.

3. Learned counsel argued that appellant had sought parole only because proper facility was not available in the Jail and if the Jail authorities had taken steps for undertaking the surgery in the Jail or with the assistance of the Jail authorities, appellant would not have any grievance.
4. Learned counsel further argued that in imposing the cost the learned writ court has committed grave error. As far as the imposition of cost is concerned, we feel that in the facts and circumstances of the case it may not be appropriate to impose the cost. To that extent, the appeal is allowed. The imposition of ₹10,000/- as cost stands set aside.
5. As far as refusing parole to the appellant is concerned, keeping in view the detailed reasons that weighed with the learned writ court, we find no error in the same warranting re-consideration. However, appellant may represent to the Jail authorities and the Jail authorities after examining the representation in detail and on getting the medical opinion may consider the question of allowing the representation of the appellant and permitting replacement of left knee by providing such facility while in custody as may be permissible under law.
6. With the aforesaid, the appeal stands disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 03, 2018
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