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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 190/2019 & CrI. M.A. No.1292/2019

SIDDHARTHA VASHISHTHA

..... Petitioner

Through: Mr. Salman Khurshid, Senior Advocate
with Mr. Amit Sahni, Ms. Azra Rehman,
Mr. Vaibhav Mishra, Ms. Anamika,
Mr. Anshul Bajaj and Mr. Aadil Singh
Bopara, Advocates.

Versus

THE STATE(GOVT OF NCT DELHI)

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel for
State with Mr. Jamal Akhtar, Advocate with
Insp. Madan Lal and SI Rajiv Singh, PS-
Mehrauli.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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21.01.2019

The petitioner is aggrieved by the rejection of his case for premature release by the Sentence Reviewing Board (SRB), by its order dated 07.12.2018. It is the petitioner's grievance that this is the third time that the decision of the SRB has gone against him, despite there being favourable reports and recommendations by: i) the Social Welfare Department of the Government of National Capital of Delhi (GNCTD), ii) Delhi Police and police in the Home Town of the petitioner. Of the seven members of the SRB, three members i.e. the Principal Secretary (Law and Justice), the Principal Secretary (Home) and Special Commissioner Police (Crimes)

opposed the premature release of the petitioner. The Chief Probation Officer, Delhi and the learned Additional District and Sessions Judge have not opposed the premature release of the petitioner, while the Minister for Home, GNCTD and D.G. (Prisons) neither opposed nor recommended his premature release. His conduct in jail is stated to be satisfactory. Indeed the petitioner has been shifted from incarceration to Semi-Open Jail to Open Jail.

The petitioner contends that the Minutes of the Meeting of the SRB do not fairly specify any clear and/or convincing reasons for the rejection of his case. He refers to the judgment of this Court in ***Sushil Sharma vs. State*** in W.P.(CRL) 3798/2018 decided on 21.12.2018, which held *inter alia*:-

“32. In Laxman Naskar vs. Union of India reported as AIR 2000 SC 986, the Hon'ble Supreme Court of India promulgated that if the Government had framed any rule or made a scheme for early release of convicts, then those rules or schemes would have to be treated as guidelines for exercising its power under Article 161 of the Constitution. The Apex Court further observed that, the Government orders rejecting the prayer for premature release of convicts without considering the conduct-record of the convicts in jail, as well as, their potential to further commit crime and the socio economic conditions of the convicts' family, suffered from gross infirmities”.

50. In view of the foregoing, in order to justifiably continue the incarceration of Sushil Kumar Sharma, beyond the maximum period stipulated in the guidelines, it is incumbent upon the State to provide cogent and compelling reasons for his further detention”.

Almost six weeks have gone by since the previous meeting of the SRB was held. Mr. Rahul Mehra, the learned Standing Counsel for GNCTD submits that as per the new guidelines, a review is to be held every three

months. The next review is likely to be held in March, 2019 and preparations for the same would, in all likelihood, begin in the month of February, 2019.

In the circumstances, it is expected that the Sentence Review Board shall consider this petition in its entirety alongwith the judgment of this Court in *Sushil Sharma* (supra) in its next meeting, which is to be held in March, 2019 or thereabouts.

The petition stands disposed-off with liberty to the petitioner to approach the Court in case of difficulty.

A copy of this order be given *dasti* to the parties under the signature of the Court Master. Additionally, the Registry is directed to serve a copy to the Sentence Reviewing Board (SRB), GNCTD.

NAJMI WAZIRI, J.

JANUARY 21, 2019
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