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

+ W.P.(CRL) 473/2019

SHASHI SHEKHAR Petitioner

Through: Ms. Charu Dalal, Advocate.

(Mob. No. 9958091776)

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Rahul Mehra, SC (Crl.) with

Mr. Rajesh Mahajan, ASC.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **07.03.2019**

1. Counter affidavit is not on record. Mr. Mehra, learned Standing Counsel (Crl.) states that counter affidavit has been filed only yesterday. He hands over a copy thereof and states that a preliminary objection has been taken with regard to the maintainability of the present petition in respect of prayer clause (i) where the petitioner seek a writ of *habeas corpus* for the reason that he is admittedly undergoing a sentence awarded to him by the Court. He submits that it does not lie in the mouth of the petitioner to urge that he is in unlawful custody. Learned counsel further states that the petitioner has withheld material information while filing the present petition inasmuch as he has not disclosed that an earlier petition filed by him

challenging non-recommendation of his release by the Sentence Review Board registered as W.P.(Crl.) 1311/2016, was dismissed by the learned Single Judge, vide order dated 09.11.2016.

2. Learned counsel for the petitioner states that she has not received a copy of the counter affidavit. A copy of the same has been furnished to her now. She seeks time to file a rejoinder. Rejoinder shall be filed within four weeks with a copy to the other side.

3. On the next date, in the first instance, learned counsel for the petitioner shall address arguments on the maintainability of the present petition insofar as prayer clause (i) is concerned.

4. List on 29.4.2019.

HIMA KOHLI, J

MANOJ KUMAR OHRI, J

MARCH 07, 2019

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