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

+ W.P.(CRL) 1709/2019 & CrI.M.A.No.12368/2019

RIYAZ KHAN @ GAINDA Petitioner

Through Mr.Harsh Prabhakar, Advocate
(DHCLSC).

versus

STATE Respondent

Through Ms.Kamani Vora, ASC for the
State with SI Vikram Singh, PS
ODRS.

% Date of Decision: 21st August, 2019

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ of habeas corpus has been filed seeking directions to the respondent to release the petitioner as he was a juvenile on the date of incident/registration of FIR No.141/2008 registered with PS Old Delhi Railway Station (ODRS), under Sections 302/307/394/397/34 IPC.
2. The petitioner was convicted by the Trial Court and the judgment of the Trial Court was upheld by a Coordinate Bench of this Court vide judgment dated 31st October, 2014 passed in CrI.A.No.299/2012.

3. It is pertinent to mention that no documentary evidence has been placed on record to show that the petitioner was a minor on the date of the crime.
4. A perusal of the nominal roll reveals that the petitioner's conduct in jail has been unsatisfactory and he is even accused of having committed a murder in the jail itself. The relevant portion of the nominal roll of the petitioner is reproduced hereinbelow:-

<i>xx</i>	<i>xxx</i>	<i>xxx</i>
15.	<i>VIOLATION OF DELHI PRISON RULES (COPY OF PUNISHMENT TICKET ENCLOSED)</i>	<i>18.03.2019: RECOVERED EXTRA BELONGING ITEMS-WARNED BY SUPERINTENDENT</i> <i>18.03.2019: HUNGER STRIKE-WARNED BY SUPERINTENDENT</i> <i>26.01.2019: ATTACK ON CO-INMATES (APPRAISAL AWAITED FROM DISTRICT & SESSION JUDGE TIS HAZARI COURT)</i> <i>18.05.2018: PHYSICAL ASSAULT & ABUSING LANGUAGE WITH OTHER INMATE</i> <i>21.04.2016: SELF INJURY</i> <i>16.02.2015: ATTACK ON CO-INMATE</i> <i>13.07.2014: ATTACK ON CO-INMATE</i> <i>11.07.2013: MISBEHAVE WITH JAIL STAFF</i> <i>01.07.2013: ATTACK ON CO-INMATE</i> <i>22.12.2012: FIGHTING WITH OTHER INMATES</i> <i>26/25.02.2012: SELF INJURY</i> <i>26.02.2012: FIGHTING WITH OTHER INMATES</i> <i>11.01.2012: SELF INJURY</i> <i>19.08.2011: ATTACK ON CO-INMATE</i> <i>25.08.2011: SELF INJURY</i>

16.	<i>JAIL CONDUCT FOR THE LAST ONE YEAR</i>	<i>UN-SATISFACTORY</i>
17.	<i>DETAILS OF I.BAIL/PAROLE/ FURLOUGH AVAILED</i>	<i>NIL</i>
18.	<i>REPORT OF MISCONDUCT DURING INTERIM BAIL/PAROLE/ FURLOUGH (IF ANY)</i>	<i>NIL</i>
19.	<i>DETAILS OF PENDING CASE (IF ANY)</i>	<i>FIR NO.526/2015 U/s 302/147/148/149/34 IPC P.S. HARI NAGAR INVOLVE IN JAIL MURDER CASE, SAME IS PENDING.</i>

(emphasis supplied)

5. As the petitioner's conduct in jail has been highly unsatisfactory, this Court is of the view that he cannot invoke the high prerogative writ jurisdiction as the said jurisdiction is available to those who approach the Courts with clean hands and good conduct.

6. Consequently, the present petition and the pending application are dismissed.

7. Trial Court records be sent back.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

**AUGUST 21, 2019
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