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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 772/2020
MAZHAR UL ISLAM ... Petitioner
Through: Mr.Siddharth Yadav, Adv.

versus
THE STATE (NCT) OF DELHI ... Respondent
Through: Mr.Ranbir Singh Kundu, APP for
State.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **12.06.2020**

1. This hearing is conducted through video-conferencing.
2. This writ petition is filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for issuance of a writ in the nature of mandamus seeking grant of parole for a period of 90 days in view of serious medical condition of the petitioner as he has to undergo surgery for 'OPEN HEMORRHOIDECTOMY' for piles.
3. The matter relates to FIR No.615/2005 under sections 302/34 IPC, P.S. Seelampur. It is stated in the petition that the petitioner is serving a sentence of life imprisonment. He has been in custody for last 13 years.
4. It is further stated that the petitioner applied for grant of parole with the respondent/State on 28.01.2020 on urgent medical grounds. However, till date he has not received any response. Previously also the petitioner has gone for treatment for 'MIPH 2 for piles'.
5. On 15.05.2020, this court passed an order directing the paiokar/learned counsel for the petitioner to fix an appointment with the doctor at Fortis Hospital, New Delhi and inform the date and time to this

court so that an appropriate order may be passed directing the jail authorities to take the petitioner to the said doctor for his medical examination.

6. On 08.06.2020, it was stated by the learned counsel for the petitioner that an appointment has been fixed at Fortis Hospital, Vasant Kunj, New Delhi for 15.06.2020 at 10:00 a.m. It was also pleaded that it would be appropriate that the petitioner be produced in person before the concerned doctor for purpose of medical examination. Learned counsel for the State had taken some time to take instruction in this regard.

7. The State has now filed a medical report regarding the petitioner. Relevant part of the said medical report reads as follows:

“ It is to inform you that as per available medical record, the inmate/patient is known case of Haemorrhoid and has been operated for the same at Fortis Hospital previously, also he has been reviewed thereafter at Fortis Hospital, G.B. Pant Hospital and latest at AIIMS in January, 2020.

Since the nature of patient's illness surgical, a physical examination is warranted for the treating surgeon to decide on future course of treatment may be considered accordingly.”

8. A perusal of the said medical report shows that the petitioner would require medical examination by an appropriate doctor. However, learned counsel for the respondent states that it would not be advisable to direct that the petitioner be produced before the concerned doctor for purpose of medical examination given the present pandemic situation. He submits that experience of the jail authorities has been that where convicts have been taken for medical examination to hospitals, some of them have caught infection of COVID-19. He further submits that after the petitioner is returned back to the jail pursuant to the medical

examination, he will be quarantined for 14 days.

9. I have perused the nominal roll of the petitioner. As per the said nominal roll, the petitioner has been in judicial custody for a period of 13 years 6 months and 13 days. His jail conduct for the last one year has been satisfactory. He jumped parole and was re-arrested on 04.04.2013. He has thereafter been on furlough on various occasions where he has at the end of the furlough period duly surrendered.

10. Keeping in view the facts and circumstances including the medical condition of the petitioner, which is reflected in the medical report and the current pandemic, in my opinion, it would be appropriate that the petitioner is released on parole for a period of four weeks from the date of his release on his furnishing a personal bond for a sum of Rs.20,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent, and subject to following conditions:

- i) he will provide his mobile number at the time of his release to the SHO, P.S. Seelampur, which shall be kept in working condition at all times and shall not be changed;
- ii) he will report every Monday at 11:00 a.m. to the SHO, P.S. Seelampur;
- iii) he will not leave the jurisdiction of the National Capital Territory of Delhi without prior permission of the concerned court;
- iv) he will place on record the details of the medical treatment received during this period, a copy of which shall also be filed before the Jail Superintendent.
- v) he shall duly surrender at the end on the expiry of parole period before the Jail Superintendent.

11. A copy of this order be sent by the Registry by e-mail to the Jail Superintendent, Tihar for information and necessary compliance.
12. With the above directions, the petition is disposed of.

JAYANT NATH, J.

JUNE 12, 2020/v