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via Videoconferencing

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(Crl.) No.842/2020**

HARPAL SINGH Petitioner
Through: Mr. Akshay Bhandari, Advocate.

Versus

STATE (GOVT. OF NCT OF DELHI) Respondent
Through: Ms. Kamna Vohra, APP for the State.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
% **01.06.2020**

The petitioner, who has been convicted in case FIR No.58/2012 under section 302 IPC at PS: Rani Bagh, Delhi and has been sentenced to life imprisonment, seeks 4 weeks parole.

2. Notice in this matter was issued on 27.05.2020, on which date learned counsel appearing for the State had sought time to file status report, in particular to verify the grounds on which punishment was awarded to the petitioner in prison.
3. Subsequently, status report dated 27.05.2020 has been filed. Updated nominal roll dated 29.05.2020 has also been placed on record along with copies of the punishment slips in relation to punishments awarded to the petitioner on account of his conduct in prison.
4. As summarised in the nominal roll, the petitioner was awarded punishments twice : on 05.07.2016 for possession of loose tobacco; and on 15.12.2017 for recovery of Samsung mobile phone-charger from the common toilet used by the petitioner. In

the nominal roll, while the first punishment has been described as a ‘minor punishment’, the second has been described as a ‘major punishment’. The nominal roll also records that the petitioner has served-out his sentence of 2 years after being convicted in case FIR No. 24/2009 registered at PS: Saraswati Vihar under sections 25/54/59 of the Arms Act. It is further recorded that the petitioner is also an accused in case FIR No. 500/2004 under sections 365/327 IPC registered at PS: Okhla Industrial Area, New Delhi in which matter he is on bail. Other than that, the nominal roll recites that petitioner’s jail conduct is satisfactory in the last 1 year.

5. Notably, as per the nominal roll, the petitioner was granted interim bail/parole/furlough on 4 occasions between 2017 and 2019; and on the last 2 occasions, parole was granted for a period of 1 month from 27.08.2018 to 26.09.2018; and then for a period of 4 weeks from 08.08.2019 to 04.09.2019, in both cases by Co-ordinate Benches of this court.
6. The status report also recites that the petitioner’s mother is taking care of his 2 minor children, the wife having been the victim of the offence. The status report further states that petitioner’s mother is bed-ridden and is living in a house in Rishi Nagar, Rani Bagh, Delhi which presently falls in a containment zone under the prevailing lockdown due to Covid-19.
7. Mr. Akshay Bhandari, learned counsel for the petitioner contends that punishment awarded on 15.12.2017 for recovery of a phone-charger from a common toilet is not a ‘major punishment’; and that in any case, the petitioner has been granted parole on 2

occasions in 2018 and 2019, *after* punishment dated 15.12.2017 had been awarded. Counsel further contends that as per the nominal roll itself, the petitioner's conduct in jail has been satisfactory for the last 1 year. He also points-out that while the petitioner has undergone the sentence in case FIR No. 24/2009, he is on bail in case FIR No. 500/2004.

8. On the other hand, Ms. Kamna Vohra, learned ASC for the State submits that as per Order dated 27.03.2020 issued by Government of NCT of Delhi, the petitioner is not entitled to 'emergency parole' on grounds of the pandemic as his conduct in jail is not 'satisfactory' since 'satisfactory conduct' has been defined in Order dated 27.03.2020 to mean that the convict should not have indulged in any misconduct in the last 3 years. She however clarifies that, as per updated instructions received, the property where the petitioner's mother resides with his 2 children, being House No. A-592, Rishi Nagar, Rani Bagh, Delhi is *not* within a containment zone but *abuts* a containment zone.
9. Upon a consideration of all aspects, as also the provisions of the Delhi Prison Rules 2018 and of Order dated 27.03.2020 issued by the Home Department of the Government of NCT of Delhi, it is seen that *firstly* that as per Rule 1210, even assuming that punishment dated 15.12.2017 amounted to a 'major punishment' the requirement is that a prisoner's conduct, if the prisoner has been awarded major punishment, should have been good for the last 02 years, which period is over in the petitioner's case. *Secondly*, Order dated 27.03.2020 for grant of 'emergency parole' on account of the prevailing pandemic, would not detract from the

petitioner's eligibility to avail ordinary parole that he is entitled to under the Delhi Prison Rules.

10. The fact is that despite punishment dated 15.12.2017 having been awarded to the petitioner, which the State contends was a 'major punishment', the petitioner has been granted parole on 2 occasions *after that* between 27.08.2018 and 04.09.2019, by a Coordinate Benches of this court.
11. Accordingly, considering the prevalent pandemic; the narration in the status report that petitioner's mother, who herself is bed-ridden, is left to look after the petitioner's 2 minor children, it is deemed fit to grant to the petitioner *parole* for a period of 45 (forty-five) days from the date of his release, subject to the following conditions:
 - i. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- to the satisfaction of the Jail Superintendent. Considering the prevailing lockdown, the furnishing of surety bond as a condition of parole, is dispensed with at this stage ;
 - ii. The petitioner shall not leave the State of Delhi without permission of the court and shall *ordinarily* reside in his place of residence as per prison records;
 - iii. The petitioner shall make a video-call every Friday between 11 am and 11:30 am to the SHO PS : Rani Bagh and also 'drop-a-pin' on Google Maps, so that the SHO can verify the petitioner's presence and location. Counsel for the petitioner has confirmed that the petitioner has the wherewithal to comply with this condition;
 - iv. The petitioner shall furnish to the SHO a cellphone number on which the petitioner may be contacted and shall ensure that the number is kept active and switched-on at all times ;

- v. If the petitioner has a passport, he shall also surrender the same to the Jail Superintendent upon revocation/easing of the prevailing lockdown;
- vi. Upon expiry of the period of parole, the petitioner shall surrender before the concerned Jail Superintendent.

12. Petition stands disposed of in the above terms.

13. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J

JUNE 01, 2020

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