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via Video-conferencing

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

+ W.P.(CRL.) 935/2020

VIPIN SHARMA

.....Petitioner

Through : Ms. Mallika Parmar, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through : Mr. Ranbir Singh Kundu, ASC
for State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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02.07.2020

The petitioner, who was convicted *vidé* judgment dated 24.04.2018 in case arising from FIR No. 90/2011 registered under sections 302/307/148/149/323/324/34 of IPC at PS : Krishna Nagar, Delhi; and has been sentenced to life imprisonment *vidé* sentencing order dated 08.05.2018, seeks parole on the ground of maintaining social ties and family relations, curbing inner stress and depression due to prolonged incarceration and also to prevent unwarranted exposure to health risk by reason of the prevalent coronavirus pandemic in prison, apart from aiding his family financially consequent upon the lockdown.

2. Ms. Mallika Parmar, learned counsel appearing for the petitioner states that the petitioner has undergone more than 09 years of actual imprisonment, without remission, and has availed parole

only once, for a brief period of 02 weeks in July-August 2019, in this entire period.

3. Ms. Parmar also points-out that apart from a punishment awarded on 02.01.2020 for alleged recovery of a mobile phone from his barrack, for which the appraisal from the learned District & Sessions Judge is still awaited, the petitioner's conduct in prison has been satisfactory.

4. Status report dated 26.06.2020 has been filed by the State. Nominal roll dated 27.06.2020 and the SCRB record dated 27.06.2020 in relation to previous convictions/involvements has also been received.

5. The status report says that the petitioner's address as given in the records has been verified and found to be correct ; that it has also been confirmed that the petitioner's family comprising his parents, a brother and a sister reside together at that address ; and that the petitioner's father had had an accident about 04 years ago, by reason of which he has a problem in speaking and walking and is under regular treatment at GTB hospital. Nothing adverse has been recorded in the status report, except to say that if the petitioner is released on parole there would be a negative impact on the victim ; and that co-accused persons namely Raunak and Pankaj are still absconding and have been declared proclaimed offenders; and that the petitioner may conspire with the proclaimed offenders.

6. The nominal roll confirms that the period of incarceration is about 09 years and 02 months ; and that the petitioner is working as *sahayak* in *langar*/kitchen and his work performance is satisfactory.

The nominal roll also shows only one punishment dated 02.01.2020 awarded to the petitioner for recovery of a mobile phone from his barrack, for which appraisal of the District & Sessions Judge is still awaited. It is further recorded that the petitioner availed parole from 25.07.2019 to 09.08.2019; and there is no allegation that he misused parole or did not surrender on time.

7. It is noticed that there is no reference in the nominal roll to two co-accused being declared proclaimed offenders. Mr. Kundu explains that this may be for the reason that the said co-accused were never put to trial. The SCRB report shows the petitioner's involvement in only one case *i.e.* the present case arising from FIR No. 90/2011.

8. Considering the aforesaid facts and circumstances, this court is persuaded to grant *parole* to the petitioner for a period of 06 (six) weeks from the date of his release, subject to the following conditions:

- a. The petitioner shall furnish a personal bond in the sum of Rs.15,000/- with 01 surety of the like amount from a family member, to the satisfaction of the Jail Superintendent;
- b. The petitioner shall not leave the State of Delhi without permission of the court and shall *ordinarily* reside at the address mentioned in this petition;
- c. The petitioner shall present himself before the SHO PS: Krishna Nagar on every Wednesday between 11 am and 11:30 am to mark his presence. However he will not be kept waiting for longer than one hour for this purpose;
- d. The petitioner shall furnish to the SHO a cell phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;

- e. If the petitioner has a passport, he shall also surrender the same to the Jail Superintendent;
 - f. The petitioner shall not engage in any unlawful act or omission ;
 - g. Upon expiry of the period of parole, the petitioner shall surrender before the concerned Jail Superintendent.
- 9. The writ petition stands disposed of in the above terms.
 - 10. Pending applications, if any, also stand disposed of.
 - 11. A copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JULY 02, 2020

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