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

+ **W.P. (CRL) 963/2020**

DEEPAK

..... Petitioner

Through Mr Siddharth Yadav, Advocate

versus

STATE

..... Respondent

Through Ms Nandita Rao, ASC for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.07.2020

[Hearing held through videoconferencing]

1. The petitioner has filed the present petition, *inter alia*, praying that he be released on parole for a period of ninety (90) days in FIR No. 5/2010 under Section 302/364-A/120-B/34 IPC registered at P.S. Rohini South.
2. The petitioner's application for parole was rejected by an order dated 16.06.2020, *inter alia*, on the ground that the life sentence awarded to him was with an added explanation that his life sentence meant '*remainder of his natural life*'.
3. The impugned order dated 16.06.2020 indicates that the respondents have interpreted the order on sentence to include a specific direction that the petitioner would not be released in his lifetime. Although, the order on sentence is not on record, the said interpretation does not appear to be merited. The explanation that life sentence meant '*remainder of his natural life*' does not mean that the Court has proscribed the respondents from

granting any parole, remission or commuting the sentence under Section 432 Cr.PC.

4. Ms Nandita Rao, learned ASC appearing for the State states that the petitioner's case was considered for an emergency parole, however, it was found that the petitioner was not eligible for the same as the order of sentence was interpreted to mean that he was not to be granted any remission.

5. It is necessary to state that the petitioner's application was not limited to only to seeking emergency parole. This Court had by the order dated 04.06.2020 passed in W.P. (Crl) 861/2020 specifically directed the concerned authorities to consider that petition (which was not limited to seeking emergency parole) as his application for parole and decide the same. The court had further clarified that in case the petitioner was entitled to be considered for emergency parole under the prevalent guidelines/policies, his case would be accordingly considered. Thus, the concerned authority/Committee was to examine the said petition as an application for parole and also consider whether the petitioner was entitled for emergency parole for a period of eight weeks under the prevalent guidelines/policy.

6. Mr Yadav, learned counsel appearing for the petitioner submits that since the petitioner's application for parole was considered only as an application for emergency parole, it was rejected. The concerned authorities were also required to consider the petitioner's petition as his application for parole in the normal course but the same was not done. He submits that without going into the question, whether the petitioner is entitled to emergency parole, he be granted parole as is granted in normal course to prisoners.

7. The nominal roll indicates that the petitioner has been in custody for ten years, five months and twenty-one days and during the said period he has also earned remission of ten months and nine days. His jail conduct for the last one year is reported to be satisfactory.

8. Without going into the question, whether the petitioner is entitled to emergency parole under the relevant circulars, this Court considers it apposite to allow the present petition and directs that the petitioner be released on parole for a period of four weeks from the date of his release subject to his furnishing a personal bond in the sum of ₹10,000/- with one surety of the equivalent amount to the satisfaction of the Jail Superintendent. This is also subject to the following further conditions:-

- (a) that the petitioner shall provide a contact number and ensure that he is reachable at all times;
- (b) that the petitioner shall report to the concerned local police station where he resides on Monday of each calendar week;
- (c) that the petitioner shall not contact the victim and his family members directly or indirectly and ensure that he does not come within the distance of one kilometre from their residence;
- (d) the petitioner shall not leave the national Capital Territory of Delhi; and
- (e) the petitioner shall not contact the co-accused(s)

9. It is also clarified that that the above order is subject to the condition that the petitioner's address is verified by the concerned authorities.

10. It is further clarified that the petitioner shall not be entitled for extension of parole and would surrender on or before the expiry of the

period of parole.

11. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

JULY 06, 2020

pkv