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

+ W.P.(CRL.) 990/2020

DEEPAK SETHI Petitioner

Through: Mr. Rajiv Mohan, Advocate.

Versus

STATE Respondent

Through: Mr. Sanjay Lao, ASC for the State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **17.07.2020**

The petitioner, who is a convict serving life sentence in case FIR No.769/2015 registered under sections 302/201/120B/34 IPC at PS: Samaypur Badli, seeks parole on medical grounds.

2. Mr. Rajiv Mohan, learned counsel for the petitioner submits that the petitioner has so far not filed any appeal impugning judgment dated 24.02.2020 and sentencing order dated 04.03.2020, whereby her was convicted and sentenced; and therefore cannot seek suspension of sentence from the appellate court.

3. The petitioner is stated to be a student aged about 24 years, who is currently pursuing a 3-year B.A. Programme from the School of Open Learning, University of Delhi.

4. By last order dated 29.06.2020, the jail administration had agreed that the petitioner would be permitted to appear for his examinations on-line from the prison itself and that arrangements for the purpose would be made by the Jail Superintendent. Mr. Sanjay

Lao, learned ASC for the State submits that the examinations stand postponed till August 2020; and the jail administration is willing to make arrangements for the petitioner to take such examinations, as and when they are conducted.

5. Nominal roll dated 14.07.2020 and medical status report dated 13.07.2020 have been received from the jail authorities. Mr. Lao submits that the State does not wish to file a separate status report; and that he has instructions to say that the petitioner's address as given in the prison records and in the present petition, has been verified.

6. Opposing grant of parole however, Mr. Lao points-out that the petitioner has not applied for parole to the jail administration; and that in any case, as per Rule 1210 of the Delhi Prison Rules 2018, the petitioner would not be entitled to parole, since he has not completed the minimum eligibility requirement of at least 01 year imprisonment as a convict, but has only served about 04 months as such.

7. Mr. Mohan however urges that medical status report dated 13.07.2020 records that from the year 2015 the petitioner has been suffering from bleeding per rectum, painful defecation and has been diagnosed as a case of 'fistula in ano' with anal fissure. The medical report further says that even in 2017 he was reviewed in the surgery department at Deen Dayal Upadhyay Hospital and was advised investigation and medication for surgical work-up. Mr. Mohan submits that this problem has only got aggravated and in fact in July 2020 the petitioner was to be sent to the surgery department, DDU Hospital for review, which did not happen in view of the coronavirus pandemic.

8. From the record, it is clear that although the petitioner does not fulfil the eligibility conditions for parole, inasmuch as he has not served “*at least the period of one year in prison excluding under-trial period*” as required by Rule 1210 of the Delhi Prison Rules 2018 but has only served about 04 months, the medical status report is quite clear that the petitioner has been suffering from a painful condition for the last almost 05 years and has not benefited from medication. The Medical Officer in-Charge of the jail administration has clearly opined that the petitioner’s complaints of bleeding per rectum, painful defecation and mucous discharge require surgical intervention (fistulectomy).

9. Upon a conspectus of the facts and circumstances, this court is persuaded to grant to the petitioner *parole* for a period of 04 weeks from the date of his release, upon the following conditions:

- a. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- with 01 surety in 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 in his place of residence as per prison records;
- c. Unless hospitalised, the petitioner shall present himself before the SHO of PS: S.P. Badli on every Wednesday between 11 am and 11:30 am. However, he will not be kept waiting for longer than one hour for this purpose;
- d. The petitioner shall provide to the SHO a cellphone 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 indulge in any unlawful act or omission;
- g. Upon expiry of the period of parole, the petitioner shall surrender before the concerned Jail Superintendent. Upon surrender, the petitioner shall also furnish to the Jail Superintendent, a copy of the discharge summary from the hospital where he undergoes his treatment and procedures.

10. It is made clear that the waiver of eligibility requirements under Rule 1210 of the Delhi Prison Rules 2018 is being permitted in the facts and circumstances of the present case and shall not form a precedent.

11. Petition stands disposed of.

12. Pending applications, if any, also stand disposed of.

13. Copy of this order be sent to the Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

JULY 17, 2020

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