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

+ **W.P.(CRL) 1046/2020**

SUNIL alias ANNU

..... Petitioner

Through Mr Vishal Raj Sehijpal, Advocate.
Mr Anwar Ahmad Khan, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through M Avi Singh, ASC for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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04.08.2020

[Hearing held through videoconferencing]

1. The petitioner has filed the present petition, *inter alia*, praying that the petitioner be released on parole for a period of eight weeks.
2. The nominal roll indicates that the petitioner was convicted for the offences under Sections 302/341/323/34 IPC and was sentenced to undergo rigorous imprisonment for life with a fine of ₹25,000/- and in default of payment of fine to undergo simple imprisonment for a further period of one year.
3. The nominal roll also indicates that the petitioner has already been in custody for a period of six years, three months and fourteen days as on 28.07.2020 and during the said period he has also earned remission of three months. Thus, as on that date, the petitioner has already served over six

years and six months of his prison sentence. The petitioner has not been released on parole as yet.

4. Mr Avi Singh, learned ASC appearing for the State submitted that the petitioner's application for parole had been rejected on the ground that his conduct in the jail was not satisfactory.

5. The nominal roll indicates that the petitioner's conduct during the last one year is satisfactory. However, it also indicates that the petitioner was punished on four occasions. First, on 07.02.2018 for fighting with another inmate; second, on 10.02.2018 for engaging in a quarrel; third, on 14.06.2018 for misbehaving with Jail Official; and fourth, on 27.03.2019 for recovery of proscribed substance (Tobacco).

6. It is seen that the first three punishments were imposed more than two years ago. The petitioner's jail conduct during the last year is reportedly satisfactory.

7. Mr Avi Singh states that the petitioner's *mulaquat* was stopped for a period of fifteen days as a punishment for recovery of Tobacco.

8. It is seen that in terms of Rule 1271(a)(II) of the Delhi Prison Rules, 2018, the said punishment qualifies to be a minor punishment. It was contended by Mr Singh that the stoppage of interviews for either up to three months would qualify as a major punishment in terms of Rule 1271(b)(II) of the said Rules. However, that contention is not merited.

9. Stoppage of privileges given to a prisoner in detention for a maximum period of one month is a minor punishment. Undeniably, the facility of interview (*mulaquat*) is a privilege granted to prisoner as is apparent from the language of Rule 589 of the Delhi Prison Rules, which makes it clear that the said privilege is contingent on good conduct. Stoppage of such

Mulaquat (interview) for a period up to one month would qualify as a minor punishment in terms of Rule 1271(a)(II) of the Delhi Prison Rules. Sub-clause (II) of Clause (b) of Rule 1271 of the said Rules must be read in this context. The words “stoppage of interviews for a period of three months” must be construed as stoppage of interviews beyond the period of one month.

10. In terms of Rule 1210 (II) of the said Rules, a prisoner would to be eligible for release on parole if his conduct in jail is uniformly good for last one year in case he has been imposed any minor punishment. The petitioner qualifies the aforesaid criteria.

11. The nominal roll also indicates that one of the co-accused has been released on parole.

12. In view of the above, this Court considers it apposite to allow the present petition and direct that the petitioner be released on parole for a period of four weeks from the date of his release on his furnishing a personal bond in the sum of ₹10,000/- with one surety of an equivalent amount to the satisfaction of the Jail Superintendent/Duty Magistrate. This is also subject to the following further conditions:-

- (a) that the petitioner shall not leave the National Capital Territory of Delhi;
- (b) that the petitioner shall provide a contact number and ensure that he is reachable at all times;
- (c) that the petitioner shall mark his presence with the concerned Police Station (Police Station Jahangir Puri) telephonically on Monday of each calendar week.

13. The petition is allowed in the aforesaid terms.

14. A copy of this order be communicated to the concerned Jail Authorities electronically.

VIBHU BAKHRU, J

AUGUST 04, 2020

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