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

+ W.P. (CRL) 1053/2020

ANIL KUMAR

..... Petitioner

Through: Mr. Ashutosh Kaushik, Advocate.

versus

STATE (GNCT OF DELHI)

..... Respondent

Through: Mr. Rajesh Mahajan, ASC for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **13.08.2020**

At the outset, Mr. Ashutosh Kaushik, learned counsel for the petitioner submits that although the prayer in the present petition was for grant of emergency parole, that prayer was made in error inasmuch as the contents of the petition will show that the petitioner was actually seeking parole.

2. Accordingly, at Mr. Kaushik's request, the present petition is taken as one seeking parole.
3. The petitioner, who is a convict serving life sentence in the case arising from FIR No. 240/2007 registered under sections 392/397/506/324/302/34 IPC at PS : Mayur Vihar, has sought parole.

4. Status report dated 18.07.2020 has been filed in the matter. Nominal roll dated 17.07.2020 has also been received from the Jail Superintendent.
5. It is seen from the record that in an earlier round when the petitioner had approached this court, by order dated 23.06.2020 made in W.P. (CRL) No. 1913/2019, a Co-ordinate Bench of this court had directed the Jail Administration, that subject to verifying the petitioner's jail conduct and any prison punishments awarded to him *after* 16.07.2019, the petitioner's parole application be considered 'sympathetically'. However, *vidé* rejection letters dated 16.07.2020 and 17.07.2020, the petitioner's requests, both for emergency parole and parole have been rejected yet again.
6. Mr. Rajesh Mahajan, learned ASC for the State has pointed-out that the reason for rejection is principally that on 02.11.2018, when the petitioner was supposed to surrender after expiration of the previous parole granted to him from 01.10.2018 to 01.11.2018, the petitioner committed an offence in which he was arrested *vidé* FIR No. 38658/2018 registered under sections 379/411 IPC at PS : Jamia Nagar. Mr. Mahajan contends that though the said offence was subsequently compounded, the fact that the petitioner committed a penal offence while on parole makes him ineligible for grant of parole under Rule 1210 (IV) of the Delhi Prison Rules, 2018.
7. Mr. Kaushik on the other hand contends that all this was considered by the Co-ordinate Bench, when *vidé* order dated 23.06.2020, it directed the competent authority to consider the petitioner's parole application 'sympathetically' *subject only* to his jail conduct and

prison punishments. Mr. Kaushik submits that it is evident from the nominal roll that after 16.07.2019, which was the date indicated in the Co-ordinate Bench's order, no prison punishment has been awarded to the petitioner and his jail conduct has been 'satisfactory' and he is serving as *lungar sahayak*. Mr. Kaushik draws attention to the fact that the petitioner has served actual incarceration of almost 12 years, not counting about 01 year and 09 months of remission.

8. Counsel also points-out that the nominal roll shows that the petitioner has been granted interim bail, parole and furlough on no less than 07 occasions ; and that he has evidently come back to prison each time. He also submits that the court may consider the fact that even the penal offence with which the petitioner was charged was of theft, which was ultimately compounded.
9. In view of the above factual position, Mr. Mahajan also fairly submits that the State leaves the issue of grant of parole to the discretion of the court.
10. Upon an overall conspectus of the foregoing facts and circumstances, especially considering the petitioner's long period of incarceration; the several interim bail and furlough orders already availed; and order dated 23.06.2020 of the Co-ordinate Bench, this court is persuaded to grant to the petitioner *parole* for a period of 04 (four) weeks from the date of his release, on the following conditions :
 - a. The petitioner shall furnish a personal bond in the sum of Rs. 20,000/- with 01 surety in the like amount from a family member, to the satisfaction of the Jail Superintendent ;

- b. The petitioner shall not leave District Bulandshahr, U.P. except to travel to and from prison in Delhi and shall *ordinarily* reside in his place of residence as per prison records;
 - c. The petitioner shall furnish to the SHO, PS: Mayur Vihar, 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 ;
 - d. The petitioner shall present himself before the SHO, PS : Agotha, District Bulandshahr, U.P. every Wednesday between 11:00 am to 11:30 am to mark his presence. However the petitioner shall not be kept waiting for longer than an hour for this purpose ;
 - e. The petitioner shall not indulge in any unlawful act or omission; and
 - f. Upon expiry of the period of parole, the petitioner shall punctually surrender before the concerned Jail Superintendent.
- 11. The petition stands disposed of.
 - 12. Pending applications, if any, also stand disposed of.
 - 13. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 13, 2020/uj