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

+ W.P. (CRL.) 1095/2020

DEEPAK

..... Petitioner

Through: Mr. Anurag Jain, Advocate.

Versus

STATE (GOVT OF NCT OF DELHI)

.... Respondent

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

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **07.08.2020**

The petitioner, who is a convict serving life sentence arising from case FIR No.05/2010 under sections 302/365/364A/392/212/120B/34 IPC registered at PS: South Rohini, seeks parole, or in the alternative, emergency parole.

2. Mr. Anurag Jain, learned counsel for the petitioner submits that the petitioner's name was neither recommended nor considered by the jail administration for parole or emergency parole despite the prevailing coronavirus pandemic. A written request dated 12.07.2020 in this behalf also did not elicit an answer.
3. Counsel states that after the present petition was filed, and pursuant to last order dated 20.07.2020, the petitioner's request has been considered; but by order dated 06.08.2020 his plea

seeking parole has been rejected on two counts. First, that as per Rule 1211(X) of the Delhi Prison Rules 2018, unless in the discretion of the competent authority special circumstances exist, a prisoner convicted for murder after kidnapping for ransom, is not entitled to parole. Second, that as per Rule 1210(V) a prisoner would not be eligible for parole unless a minimum period of 06 months has elapsed from the date of surrender after a previous parole.

4. In the present case, nominal roll dated 21.07.2020 records that the petitioner availed parole from 15.01.2020 to 10.02.2020; and therefore, strictly speaking, the period of 06 months has not yet elapsed.
5. Mr. Jain contends that Rule 1211(X) excepts special circumstances; and the prevailing coronavirus pandemic qualifies as such. Insofar as Rule 1210(V) is concerned, Mr. Jain submits that the 06-month period lapses 02 days from now and therefore that condition should be taken as fulfilled.
6. Relying upon status report dated 06.08.2020 and upon Rules 1211(X) and 1210(V), Mr. Rajesh Mahajan, learned ASC appearing for the State, on the other hand submits that not only does the petitioner not fulfil the eligibility requirements as aforesaid, his sentencing order specifically stipulates that he will remain in prison for the remainder of his natural life. Mr. Mahajan of course fairly clarifies that this stipulation in the sentencing

order would apply to grant of 'emergency parole' but would not be an impediment to grant of 'parole'.

7. The nominal roll shows that the petitioner has been in custody for more than 10 years without counting remission; that his jail conduct is 'satisfactory' and he is serving as 'ward *sahayak*'; and that he has availed parole only once between 15.01.2020 and 10.02.2020; although, he has been awarded jail punishment once on 24.06.2017. It is also noticed that co-convict Biplav Biswas is presently out on parole.
8. Be that as it may, this court is persuaded to accept the petitioner's contention that Rule 1211(X) does specify an exception in special circumstances, which exist today in view of the prevailing pandemic. Furthermore, application of Rule 1210(V) as to the 06-month gap would also be hyper-technical, inasmuch as parole may be directed to commence a few days later. Insofar as the stipulation in the sentencing order is concerned, as submitted on behalf of the State, that would not apply to grant of ordinary parole.
9. Upon a conspectus of the circumstances, this court grants to the petitioner parole for a period of 45 (forty-five) days from the date of his release, which should *not be earlier than 5 (five) days* from now, subject to the following conditions:-
 - (a) The petitioner shall furnish a personal bond in the sum of Rs.25,000/- 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 at the address mentioned in this petition;
 - (c) The petitioner shall furnish to the concerned 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;
 - (d) The petitioner shall not contact, meet or otherwise interact with co-convict Biplav Biswas while on parole; and
 - (e) Upon expiry of the period of parole, the petitioner shall surrender before the concerned Jail Superintendent.
10. The petition stands disposed of.
11. Other pending applications, if any, also stand disposed of.
12. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 07, 2020

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