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

+ W.P. (CRL.) 1104/2020

HARDEEP

..... Petitioner

Through: Mr. U. Jayakrishnan, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS. Respondents

Through: Mr. Ranbir Singh Kundu, ASC for the
State with Inspector Praveen Kumar, PS:
Rohini South.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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14.08.2020

The petitioner is a convict serving life sentence in a case arising from FIR No. 05/2010 registered under sections 302/364A/392/120B IPC at PS: South Rohini.

2. By way of the present petition, the petitioner seeks parole *inter alia* on the ground that his aged mother, who stays alone, is suffering from various diseases and also met with an accident on 06.12.2019 for which she was admitted to Safdarjung Hospital and has thereafter not been keeping well.

3. Notice in this petition was issued on 22.07.2020.

4. Status report dated 14.08.2020 has been forwarded by e-mail. Let a copy be placed on record.
5. Nominal roll dated 11.08.2020 has been received from the Jail Superintendent.
6. Order dated 22.07.2020, whereby the petitioner's application for parole has been rejected by the Jail Administration, has also been forwarded by e-mail. Let a copy be placed on record.
7. Mr. U. Jayakrishnan, learned counsel for the petitioner submits that, as evidenced by the nominal roll, the petitioner is serving life sentence and his Criminal Appeal No. 06/2018 was dismissed by the High Court *vidé* order dated 31.05.2019. The petitioner has been in judicial custody for more than 10 years, not counting remission. In another case bearing FIR No. 670/2016 registered under sections 147/148/149/323/324/186/34 IPC at PS: SP Badli, the petitioner is on bail.
8. Although the nominal roll records that the overall jail conduct of the petitioner is 'not satisfactory', it is seen that the 04 prison punishments awarded were for offences such as possessing prohibited articles and misbehaviour with jail staff; and that the last punishment was awarded to the petitioner on 08.06.2019 *i.e.* more than a year ago. It is further seen that the petitioner was granted interim bail twice, in March 2018 and April 2018, and there is no allegation that he did not surrender on time.

9. Status report dated 14.08.2020 says that, on enquiry from neighbours, it was found that the petitioner's elder brother alongwith his wife and children stay in the same house as the mother, though on a different floor. The status report also records that the elder brother is a driver by occupation and that the mother suffered an injury last year due to an accident. Mr. Jayakrishnan submits that since the other brother is a driver, by reason of his duties, he is usually not available at home.

10. Order dated 22.07.2020 rejects the parole application on two grounds, namely that as per Rule 1211 of the Delhi Prison Rules 2018, where a prisoner is convicted for murder after kidnapping for ransom, parole is not granted except in special circumstances in the discretion of the competent authority; and that the overall jail conduct of the petitioner is 'unsatisfactory'.

11. Mr. R. S. Kundu, learned ASC for the State points-out that the nominal roll also shows that another co-convict, Deepak son of Ramphal, is presently on parole; and that, as per Rule 1212 of the Delhi Prison Rules, two co-convicts are not ordinarily granted parole at the same time.

12. Upon a conspectus of the facts and circumstances, what weighs with this court is *firstly*, that the petitioner has been in judicial custody for more than 10-1/2 years without counting remission; *secondly*, he was granted interim bail twice in Mach 2018 and April 2018 and there is no allegation that he misused the liberty or did not surrender on time; and *thirdly*, that his mother's poor medical condition has been verified. Insofar as rejection of the parole application based on Rule 1211 of the

Delhi Prison Rules is concerned, the fact that the petitioner was convicted for murder after kidnapping for ransom is not an absolute bar to granting parole; and the requirements of Rule 1212 can be addressed by imposing appropriate conditions of parole. Although the petitioner's jail conduct has not been impeccable, it is noticed that the prison offences committed were not very serious or violent; that the petitioner has already received punishment for those offences; and that the last punishment was awarded more than a year ago.

13. In the circumstances, this court is persuaded to grant to the petitioner *parole* for a period of 45 (forty-five) days from the date of his release, on 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 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 present himself before the SHO, PS: South Rohini every Wednesday between 11 a.m. and 11:30 a.m. to mark his presence. However, he will not be kept waiting for longer than an hour for this purpose;
- (e) The petitioner shall not contact, meet or interact with co-accused Deepak son of Ramphal, who is presently stated to be out on parole;

- (f) While on parole the petitioner shall not indulge in any act or omission that is unlawful;
 - (g) Upon expiry of the period of parole, the petitioner shall surrender before the concerned Jail Superintendent.
14. The petition stands disposed of.
 15. Other pending applications, if any, also stand disposed of.
 16. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J

AUGUST 14, 2020

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