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

+ **W.P.(CRL) 1172/2020**

SHIV KUMAR YADAV

..... Petitioner

Through: Mr B. Badrinath, Advocate.

versus

STATE OF GNCT OF DELHI

..... Respondent

Through: Mr Amit Peswani, Advocate for Ms
Nandita Rao, ASC (Crl.) for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2020

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, impugning the order dated 19.12.2019, whereby the petitioner's request for parole was rejected.
2. A plain reading of the said order indicates that the petitioner's application for parole was rejected, essentially, on three grounds. First, that he had committed a heinous crime. Second, more than four cases were pending against him and; third that he had relatively served a small portion of his sentence.
3. The nominal roll indicates that the petitioner was convicted of offences punishable under Sections 376(2)/323/366/506 of the IPC. By an order dated 03.11.2015, he was sentenced to serve life imprisonment with a fine of ₹21,000/-. The order of sentence also emphasised that life

imprisonment meant the remainder of the convict's natural life.

4. The petitioner's appeal (CRL.A.471/2016) against his conviction and the order of sentence was rejected by this Court by an order dated 10.09.2018.

5. The nominal roll indicates that the petitioner is involved in four other cases, including an FIR under Sections 376/394/506 of the IPC (FIR No.128/2013 registered with PS Alau, Main Puri).

6. Mr Badrinath, learned counsel appearing for the petitioner earnestly contended that none of the grounds on which the petitioner's application for parole was rejected, falls within the scope of Rule 1211 of the Delhi Prison Rules, 2018 (hereafter 'the Rules'). He referred to the said Rule and pointed out that parole can be denied in certain cases as specified under the said Rule but conviction for a heinous crime or being involved in multiple cases are not included under the said Rule.

7. He submitted that in order to be eligible for parole, a convict must spend at least one year in the prison as specified in Rule 1210 of the Rules, and the petitioner qualified the said criteria and, therefore, the ground that he had spent less period of time in jail is not one of the relevant considerations.

8. Mr Peswani, learned counsel appearing for the State submitted that in addition to the grounds as mentioned in the impugned order, the petitioner was also awarded minor punishment on 30.01.2020. Thus, in terms of Rule 1210(II) of the Rules, the petitioner is not eligible for grant of parole.

9. This Court has heard the learned counsel for the parties.

10. First of all, the impugned order was passed on 19.12.2019 and a considerable period has since elapsed, thus, it would not be apposite to accede to the petitioner's prayer. However, it will of course be open for the

petitioner to apply afresh. Needless to state that if an application is made, the same would be considered in accordance with the Rules.

11. Having stated the above, it is also relevant to bear in mind that the grant of parole is a matter of discretion. Further, in terms of Rule 1210(II) of the Rules, a convict who has been awarded a minor punishment would not be eligible for parole if his conduct is not good for one year. In terms of the said rule of the Rules, the petitioner would not be eligible for parole till 30.01.2021.

12. In view of the above, the present petition is dismissed.

VIBHU BAKHRU, J

JULY 31, 2020
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