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

+ **W.P.(CRL) 1384/2020**

DINESH CHAND

..... Petitioner

Through Mr Kumar Vaibhaw, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through Mr Rahul Mehra, Standing Counsel for
State with Mr Amarpreet Singh, Advocate .

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.09.2020**

[Hearing held through video conferencing]

CRL.M.A. 12126/2020

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioner has filed the present petition, *inter alia*, impugning the order dated 11.08.2020 wherein the petitioner's application for emergency parole was rejected.
4. A plain reading of the said order indicates that the petitioner's case for emergency parole for a period of eight weeks was considered by the competent authority along with twenty-one other cases. While the concerned authority granted emergency parole to five of those applicants, the competent authority rejected the remaining cases including that of the

petitioner.

5. The impugned order indicates that the petitioner's application for parole was rejected on the ground that he was involved in a serious offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

6. Learned counsel appearing for the petitioner referred to the order dated 27.03.2020 passed by the Government of NCT of Delhi and drew the attention of this Court to sub-paragraph (2) of paragraph five of the said order. The said paragraph reads as under:-

"5. The following categories of convicts would be considered for grant of emergency parole by the above committee:-

(1) xxxxxxxx

(2) **All convicts who have availed parole/furlough in the past:-**

Such convicts who have availed parole/furlough in the past and have overall satisfactory conduct would be granted eight weeks of emergency parole on furnishing of personal bond."

7. He submitted that since the petitioner had been granted parole on an earlier occasion by an order dated 14.10.2019 passed by this Court, the petitioner was entitled to be granted emergency parole for a period of eight weeks. He also stated that in the event the petitioner's application for emergency parole could not have been considered, then his application for parole in the normal course should have been considered.

8. The contentions advanced by the petitioner are unmerited. A plain reading of paragraph 5 (2) of the order dated 27.03.2020 indicates that all convicts who have been granted parole/furlough in the past are eligible to be considered for emergency parole. The said order cannot be read to mean that all convicts who have been granted parole/furlough must be granted emergency parole. The opening sentence of paragraph 5 clearly indicates that the competent authority was only to consider the cases of the convicts and not necessarily grant emergency parole.

9. In the present case, there is no dispute that the petitioner's case was considered by the concerned committee. The concerned committee in its discretion did not recommend that the petitioner be granted parole on the ground that the petitioner was involved in a heinous crime. The said ground cannot be stated to be arbitrary or unreasonable.

10. In terms of Rule 1211 (VII) of the Delhi Prison Rules, the prisoner who has been convicted under POCSO would not be granted parole, except, if in the discretion of the competent authority special circumstances exist for granting of such parole.

11. In view of the above, this Court finds no infirmity with the impugned order.

12. Insofar as the petitioner's prayer that he be granted regular parole is concerned, this Court considers it apposite to reserve the right of the petitioner to make an application for seeking regular parole. The petitioner would be at liberty to apply afresh stating the special circumstances for grant of parole.

13. If such application is moved by the petitioner, the Competent Authority shall consider the same within a period of two weeks after filing

of the said application. The Competent Authority shall also take into account that this court in the past had passed orders for releasing the petitioner on parole and there is no allegation that he has misused that liberty.

14. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

SEPTEMBER 3, 2020

pkv

Signature Not Verified

Signed By: DUSHYANT
RAWAL
Location:
Signing Date: 03/09/2020
20:59:01

