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

+ W.P.(CRL) 2012/2019

OM SINGH

..... Petitioner

Through: Mr Roshan Lal Saini, Advocate.

versus

STATE

..... Respondent

Through: Mr Sanjay Lao, ASC for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.06.2020

[Hearing held through video conferencing]

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 02.04.2019 passed by the respondent, whereby the petitioner's request for being transferred to a semi open prison, was rejected.
2. A plain reading of the order indicates that the concerned committee had rejected the petitioner's application in view of Rule 1322 of the Delhi Prison Rules 2018, which expressly provides that a prisoner suffering from serious physical or mental disease or having a history of "serious mental illness" would not be sent to the semi open prison.
3. A status report has been filed, which indicates that the petitioner was transferred to Tihar Jail in March, 2017 and he had given history of being on psychiatric medication from GTB Hospital. However, no supporting documents were produced. He also complained that he had suicidal thoughts and therefore, he was put on medication. The petitioner's case was reviewed by a Psychiatrist on 21.03.2017 and at the material time, the

petitioner had complained of excessive thoughts and decreased sleep. The psychiatrist had observed that the petitioner was unkempt and his mood was sad. He was again started on regular medication. Subsequently, on 28.12.2017 his case was again reviewed and he was given medicine for “minor psychological symptoms and adjustment symptoms”. The report also indicates that no psychiatric illness was diagnosed and his medication was stopped.

4. The above report does not indicate that the petitioner had any “previous history of serious mental illness.” However, Mr Lao, learned ASC appearing for the State submits that the petitioner may have a history of serious mental illness. He states that the petitioner had overstayed his parole granted in the year 2012 and he was taken in custody on 24.05.2012 from IHBAS hospital. He states that this also indicates that the petitioner may be suffering from certain mental illness.

5. This Court was inclined to refer the petitioner’s case to a Medical Board to ascertain whether he is suffering from any mental illness or had any history of “serious mental illness”. However, this Court is informed that the petitioner is on emergency parole and it may not be feasible to constitute a Medical Board in the current situation.

6. Mr Lao also states that the petitioner’s case has been again recommended to SRB and would be considered as and when the current situation improves. He points out that currently prisoners in semi open prison have been released on emergency parole.

7. The respondent is bound down to the statement to reconsider the petitioner’s case for premature release/transfer to a semi open prison as and when the concerned committee meets for the said purposes.

8. The petitioner is also at liberty to apply if the petitioner's case is rejected.
9. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

JUNE 16, 2020
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