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

% *Order pronounced on: 19.04.2022*

+ **W.P.(CRL) 341/2022**

ABHINAV ANAND @ BABBAL Petitioner

Through: Ms. Astha, Advocate/DHCLSC.
versus

THE STATE (N.C.T. OF DELHI) Respondent

Through: Ms. Kamna Vohra, ASC for State.
Insp. Ashwani, SI Suresh Kumar, PS
Usmanpur.

CORAM:
HON'BLE MR. JUSTICE TALWANT SINGH

TALWANT SINGH, J.:

1. The petitioner has filed this petition seeking issuance of mandamus directing the respondent to release the petitioner on parole for a period of eight weeks for maintaining social ties and for the medical treatment of his mother.
2. It has been submitted that the petitioner was convicted for offences under Section 367/377/304/34 IPC vide judgement dated 01.02.2017 and further sentenced vide order dated 21.02.2017 to undergo RI for life and fine.
 - 2.1 When the petitioner approached the Hon'ble High Court by filing Criminal Appeal No. 483/2017, the sentence awarded to him for offences under Section 377 read with Section 34 IPC was set aside. The petitioner has undergone about 8 years and 11 months of actual custody.
 - 2.2 The petitioner moved an application for grant of parole, which was rejected vide communication dated 10.01.2022 for the reason that the overall



jail conduct and last one year jail conduct of the petitioner are reported to be unsatisfactory. The convict had jumped the earlier parole and he was re-arrested on 12.02.2020. As per the petitioner, main ground for applying for parole has been overlooked by the authorities as his mother is about 65 years old; she has met with an accident in the year 2014 where she got grievously injured and she is mostly confined to bed. The father of the petitioner due to his old age is unable to look after the petitioner's mother and she is not getting proper medical treatment and the release of petitioner is needed for looking after his mother.

2.3 The petitioner had already availed two paroles in the year 2018 and 2019 and the present rejection of parole is against the principles of natural justice.

2.4 The petitioner is a law-abiding citizen and he is a permanent resident at the address given in the title of the petition. He belongs to a poor family and he wants to maintain social ties. He undertakes to abide by all the terms and conditions which may be imposed upon him.

3. Notice was issued. Status report has been filed. Arguments heard.

4. Nominal roll is on record which shows that till now, the petitioner has already undergone the sentence of 10 years under Section 367/34 IPC and now he is undergoing RI for life awarded under Section 302/34 IPC. The nominal roll further shows that his jail conduct for the last one year as well as his overall jail conduct, both are unsatisfactory.

4.1 Even when he was granted parole in the year 2018 and 2019 on both these occasions, he had jumped parole.

4.2 In 2018, he surrendered nine days late after expiry of the date of parole whereas when he was released on 09.12.2019 and the parole was to expire on



07.01.2020, he never surrendered and rather he was re-arrested on 12.02.2020.

4.3 The status report shows that the mother of the petitioner had suffered an accident in the year 2019 and she got injuries on her right leg. She was earlier getting treatment from Swami Dayanand Hospital, Shahadara Delhi and now she is getting herself treated at Jag Parvesh Hospital, Shastri Park Delhi

4.4 Two other surviving brothers of the present petitioner are living in the same premiss but separately and both of them are taking care of their mother. The father of the petitioner is stated to be an alcohol addict and he is living separately in the same premises. The mother of the petitioner wants him to return home.

4.5 On the other hand, two brothers of petitioner, staying in the same premises have stated that they are capable of and are taking proper care of their mother. They do not want the present petitioner to be released from jail as he creates problems after his release and he may jump parole and every time he is released on parole, at the time of surrender, he never wants to go back to jail.

4.6 The relevant part of the rejection order dated 10.01.2022 is reproduced here under:

“The convict is not entitled for parole in view of Rule 1210 sub rule (II) & (IV) of Delhi Prison Rules, 2018, which states that:

1. Rule 1210 sub rule (II):- The conduct of the Prisoner who has been awarded major punishment for any prison offence should have been uniformly good for last two years from the date of application and the conduct of Prisoner who has been awarded minor punishment or no punishment for any prison offence in prison should have been



uniformly good for last one year from the date of application. In this case, the overall jail conduct and last one year jail conduct of the convict is reported to the unsatisfactory being punishment 14.04.2021.

2. Rule 1210 sub rule (IV):- The convict should not have violated any terms and conditions of the parole or furlough granted previously. In this case, convict jumped the parole and re-arrested on 12.02.2020.

4.7 The nominal roll received from the jail shows his conduct as under:

17	Jail conduct for the last one year	Un-satisfactory being punishment dated 1. 14.04.2021 (intoxicated substances and smoking. (mulakat stopped for 15 days) 2. 27.09.2021:- Fighting with other co-inmates (warned by SCJ-14).
18	Overall jail conduct (with the details of punishments, if any)	Un-satisfactory being punishment 1. 27.11.2017:- (Shaving blade recovered) warned 2. 07.11.2018:- (Parole jumped) Mulakat stopped for 1 week & entire period of parole not be counted in sentence. 3. 19.05.2018:- (Prohibited articles were recovered) warned by SCJ. 4. 15.04.2020:- (Self injury with other 31 CTP) Mulakat & phone facilities are to be stopped for 15 days (Approved by the Hon'ble D&S Judge) 5. 14.04.2021 Intoxicated substances and smoking. (Mulakat stopped for 15 days) 6. 27.09.2021:- Fighting with other co-inmates (warned by SCJ-14)

4.8 Moreover, the parole history as given in the nominal roll is quite negative:

20	Report of misconduct (if any) during interim bail/parole/furlough availed	1. 01 month parole w.e.f 27.09.2018 to 27.10.2018 by GNCTD (09 days late surrender on 06.11.2018) 2. 04 weeks parole w.e.f. 09.12.2019
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		to 07.01.2020 by DHC. (but parole jumped and re-arrested on 12.02.2020)
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4.9 It is clear from the above that the jail conduct of the petitioner was unsatisfactory during the last one year when his parole application was considered as mentioned at point No. 17 and his overall jail conduct as detailed at point No. 18 shows six instances of unsatisfactory behaviour. Moreover, both the times when he was released on parole, he never surrendered back within time. In the first case, there was a delay of nine days while surrendering but at the time of the second parole, he never surrendered and he was re-arrested on 12.02.2020.

4.10 As far as the ground of taking care of his mother is concerned, the status report shows that his two other brothers, who are living in the same premises are taking care of his mother. As far as ground of maintaining social ties is concerned, his own two brothers are living in the same premises are opposing the release of the petitioner on parole. In my view, the competent authority has rightly rejected his parole application vide order dated 10.01.2022.

5. In view of the previous conduct of the petitioner and provisions contained in Rule 1210 (II) as well as under Rule 1210 (IV) of Delhi Prison Rules, 2018, the writ petition has no merit and the same is dismissed.

6. Let copy of this order be sent to the petitioner through the concerned Jail Superintendent.

TALWANT SINGH, J

APRIL 19, 2022/pa

Click here to check corrigendum, if any