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

% Order pronounced on 24.05.2022

+ W.P.(CRL) 791/2022 & CRL.M.A. 7514/2022

SUMIT @ PAWAN Petitioner

Through: Mr. Siddharth Yadav, Advocate.
versus

STATE Respondent

Through: Mr. Rajesh Mahajan, ASC with Ms.
Jyothi Babbar and Mr. Ranjeeb
Kamal Bora, Advocates for State

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. This is a writ petition under article 226 of the Constitution of India r/w section 482 Cr.P.C. seeking issuance of writ in the nature of Certiorari quashing order dated 29/3/22 bearing number F.18/424/2014/HG/850 issued by the competent authority refusing to release the present petitioner on parole and further prayer has been made for issuance of writ in the nature of Mandamus granting parole for a period of sixty(60) days to the applicant in case FIR No.90/2010, under Section 302/201/34 IPC, PS Bhalswa Dairy, to attend to his ailing mother.

2. The present petitioner has challenged the order of rejection dated 29.03.2022 of his parole application. The relevant portion of the said order is reproduced hereunder:-

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



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 convict is having Punishment dated 20.08.2020 (said convict was released on emergency parole 01.04.2020 to 27.05.2020 for a period of 08 weeks granted by DG(Prisons) but the above said convict was arrested in new case FIR No. 316/2020 on 10.05.2020 and admitted in Central Jail No.3, Tihar) for which ICS and Canteen facilities were stopped for a period of one month. As per Rule 1271 of Delhi Prison Rules-2018, punishment dated 20.08.2020 Is a major punishment.

1210 sub rule (IV):- "The convict should not have violated any terms and conditions of the parole or furlough granted previously". In this case, the above said convict availed emergency parole w.e.f, 01.04.2020 to 27.05.2020 (08 weeks granted by the DG (Prison) but the above said accused was arrested in new case FIR No. 316/2020 on 10.05.2020. Further, said convict was released on 24.04.2021 on one week parole by the Hon'ble High Court order dated 19.04.2021 and surrender was fixed for 02.05.2021, however accused was surrendered on 12.05.2021 as directed by the Hon'ble High Court of Delhi vide order dated 11.05.2021.

2. Further, the overall jail conduct is reported to be unsatisfactory being punishments dated 19.01.2018 & 20.08.2020.

The convict may be informed accordingly."

3. The notice was issued. Status report has been filed.
4. I have heard learned counsel for the petitioner as well as the learned APP for the State.



4.1 The reason for dismissal of the parole petition is that the petitioner was released on emergency parole on 01.04.2020 to 27.05.2020 for a period of 8 weeks granted by DG (Prisons), but during the said period the convict was arrested in a new case being FIR No. 316/2020 on 10.05.2020 and was sent to jail. Thereafter the convict was released on bail on 24.04.2021 on one week parole by the High Court vide order dated 19.04.2021 and date of surrender was fixed for 02.05.2021, however the accused surrendered only on 12.05.2021.

4.2 The status report filed by the State shows that the mother of the petitioner is under treatment of Dr. Dinesh Kumar Singh, Tirath Ram Hospital, Rajpur Road, Delhi-110054, where she was admitted on 04.04.2022 and she was discharged on 10.04.2022. There was much improvement in her condition and she was referred to ENT, OPD at AIIMS, Delhi regarding her right ear chronic problem. She was fully stable, eating, walking and talking normally and she was not having any serious emergency at the time of her discharge.

4.3 The local enquiry report shows that mother of the petitioner is living alone after the demise of her daughter and husband and both of her sons are incarcerated.

4.4 Although, this Court is inclined to help out the mother of the petitioner but conduct of the petitioner is quite unsatisfactory as when he was released in April-May, 2020 on emergency parole, he committed another crime, was arrested and lodged in jail on 10.05.2020 and when he was granted parole by this Court in April, 2021, he did not surrender on time. When the petitioner is intentionally disobeying the orders passed by this Court as well as he is indulging in committing crimes while on parole,



no ground is made out to grant the parole.

5. Keeping in view the above facts and circumstances, especially the conduct of the petitioner during the parole granted in 2020 and 2021, I am not inclined to quash the impugned order dated 29.03.2022 and to grant parole to the present petitioner.

6. The writ petition is without any merits and the same is accordingly dismissed. Pending application(s) also stands disposed of. The petitioner be informed accordingly through Jail Superintendent.

TALWANT SINGH, J

MAY 24, 2022/mr

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