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

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***Reserved on: 18.04.2023
Pronounced on: 01.05.2023***

+ **W.P.(CRL) 347/2023**

ABHINAV ANAND @ BABBAL Petitioner

Through: **Mr. Paranjana Chopra,**
Advocate

versus

STATE NCT OF DELHI Respondent

Through: **Ms. Rupali Bandhopadhyaya,**
ASC for the State with SI
Suresh Kumar, P.S. New
Usmanpur and Mr. Akshay
Kumar and Mr. Abhijeet
Kumar, Advocates

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of present petition filed under Article 226 of Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks issuance of writ of mandamus or any other appropriate writ directing the respondent/State to release the petitioner on parole for a period of 01 month for maintaining social and family ties and for medical treatment of his mother.

2. In brief, the case of petitioner is that he was convicted, vide judgment dated 01.02.2017, for the offences punishable under Sections 367/377/302/34 of Indian Penal Code, 1860, in case FIR bearing no. 281/2012, registered at Police Station New Usman Pur, New Delhi and was sentenced vide order dated 21.02.2017 to undergo rigorous imprisonment for a period of: (i) ten years for offence punishable under Section 367/34 (ii) ten years for offence punishable under Section 377/34, and (iii) imprisonment of life for offence punishable under Section 302/34. His appeal against conviction Crl. Appeal No. 483/2017 was disposed of by this Court vide judgment dated 21.05.2018 whereby his conviction under Sections 302/367/34 IPC was upheld, however, he along with co-accused, was acquitted for the offence under Section 377/34 IPC. The SLP filed by the petitioner also stands dismissed.

3. Learned counsel for petitioner submits that in relation to this case, the petitioner has been in judicial custody since 03.10.2012, and has already completed sentence of ten years under Section 367/34 IPC till 12.01.2022 and is currently serving sentence under Section 302/34 IPC. Learned counsel for the petitioner further states that petitioner be granted parole for maintaining social and family ties and for medical treatment of his mother who is suffering from various ailments and there is nobody to look after her.

4. Learned ASC for the State, on the other hand, argues that the concerned authority has rightly dismissed the parole application filed by the petitioner. It is stated that when the petitioner was granted parole on two previous occasions in 2018 and 2019, on one occasion

he had surrendered 09 days late and on the other, he had jumped the parole and was thereafter arrested one month later. It is also submitted that overall jail conduct as well as last one year jail conduct is reported to be unsatisfactory.

5. The arguments of both sides have been heard by this Court and material on record has been perused.

6. Attention of this Court has been drawn to the fact that the present petitioner was awarded imprisonment for life and has been in judicial custody for about 10 years. The aim and object of parole is to provide a chance to the prisoners to reintegrate into society and to assess their ability to live as a law-abiding citizen. The Courts must strive to strike a balance between the interests of society as well as a convict when deciding the question of grant of parole. While doing so, the Court must keep in mind the petitioner's life sentence as well as the fact that over the past 10 years, circumstances may have arisen that require him to attend to family obligations and exigencies.

7. As far as conduct of petitioner during the course of previous paroles is concerned, it is not in dispute that he had surrendered 09 days late on one occasion and had to be arrested a month later on the second occasion, however, as on date, about 3 years have passed since the said incident.

8. Considering the overall facts and circumstances of the case, the present petition is allowed. The petitioner is granted parole for a period of (01) one month, subject to the following conditions:

- a) The petitioner shall furnish a personal bond in the sum of Rs.20,000/- with one surety of the like

amount who shall be a family member, to the satisfaction of the Jail Superintendent.

- b) During the period of parole, the petitioner shall stay within the limits of NCT of Delhi. Further, before his release on parole, the petitioner shall inform the Jail Superintendent about the details of his address in Delhi where he shall ordinarily reside during the period of parole.
- c) The petitioner will report on every Saturday to the SHO, Police Station New Usman Pur, Delhi between 11 am and 11:30 am for marking his appearance.
- d) The petitioner shall furnish a telephone/mobile number to the Jail Superintendent on which he can be contacted, if required. Such telephone/mobile number shall be kept switched-on and operational at all times.
- e) If petitioner has a passport, he shall also surrender the same to the Jail Superintendent.
- f) The petitioner shall not indulge in any criminal or illegal activities during the period of parole.
- g) Immediately upon the expiry of the period of parole, the petitioner shall surrender before the Jail Superintendent.
- h) The period of parole shall be counted from the day when the petitioner is released from Jail.

9. In above terms, the present writ petition stands disposed of.

10. A copy of this order be forwarded to the concerned Jail Superintendent for information.
11. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 1, 2023/zp

