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

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***Reserved on: 19.09.2023
Pronounced on: 17.10.2023***+ **W.P.(CRL) 1176/2023**

NITIN @AATISH SINGH @ PINTU Petitioner

Through: Mr. Vinayak Bhandari, Ms.
Jaisal Singh and Ms. Teesta
Mishra, Advocates

versus

STATE (GNCT OF DELHI) Respondent

Through: Mr. Amol Sinha, ASC for
State with SI Himanshu, PS
Nihal Vihar, Mr. Kshitiz Garg,
Mr. Ashvini Kumar and Ms.
Chavi Lazarus, Advocates**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. By way of instant petition filed under Article 226 of Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 ('Cr.P.C. '), the petitioner seeks issuance of writ in the nature of certiorari for quashing of order dated 03.03.2023 passed by respondent, and issuance of writ in the nature of mandamus directing respondent to release petitioner on parole for a period of four weeks.



2. The petitioner is presently confined in Central Jail No. 14, Mandoli, New Delhi. By virtue of judgment dated 11.10.2019, the petitioner was convicted under Section 302/307 of Indian Penal Code, 1860 in case arising out of FIR bearing no. 174/2011, registered at Police Station Nihal Vihar, New Delhi and *vide* order on sentence dated 17.10.2019, he was sentenced to undergo rigorous imprisonment for life alongwith fine of Rs.5,000/- under Section 302 of IPC, and sentenced to undergo rigorous imprisonment for two years alongwith fine of Rs.3000/- under Section 307 of IPC. His appeal against conviction i.e. Crl. Appeal No. 111/2020 was dismissed by this Court *vide* judgment dated 28.04.2022.

3. The petitioner seeks parole for a period of four weeks for establishing social and family ties.

4. Learned counsel for petitioner states that the petitioner had earlier filed an application for grant of parole before the respondent in September, 2022 which was rejected *vide* order dated 23.09.2022 on erroneous and factually incorrect grounds and thereafter, the petitioner had challenged the said order by way of W.P. (Crl.) 3047/2022 and this Court *vide* order dated 09.01.2023 had directed the respondent to process the application for parole filed before the competent authority and decide the same in accordance with law. Thereafter, the petitioner had again filed a writ petition seeking expeditious disposal of the aforesaid application and *vide* order dated 21.02.2023, this Court had directed the respondent to decide parole application of the petitioner within two weeks. It is argued that the respondent *vide* order dated 03.03.2023 has rejected the application



of the petitioner on the sole ground that the offence committed by the petitioner was grave and heinous. It is argued that petitioner has deep roots in the society and has been in judicial custody for a period of 12 years and 03 months. It is also submitted that the jail conduct of the petitioner has been satisfactory and he had never misused the liberty of interim bail granted to him in past in the years 2015 and 2018. Therefore, it is prayed that the present petition be allowed.

5. Learned ASC for the State on the other hand submits that the offence committed by the petitioner is serious and grave in nature. It is stated that petitioner was also awarded a punishment in the jail in the year 2020. Thus, it is prayed that the present petition be dismissed.

6. The rival contentions raised on behalf of both the parties have been heard and considered and material placed on record has been perused.

7. The order dated 03.03.2023 vide which the parole application of the petitioner was rejected reads as under:

“...With reference to your office letter No.F.14/SCJ-14/AS(CT)/2022/2828 dated 29.09.2022, on the subject cited above, I am to inform you that the request in respect of the above said convict for grant of parole has been considered and rejected by the Hon'ble Lt. Governor of Delhi keeping in view of the gravity of heinous offence committed by the above said convict. Further, as per police verification report received from PS- Nihal Vihar, it is stated that parole to said convict may not be granted...”

8. Thus, the application for grant of parole filed by the petitioner had been rejected by the respondent on the sole ground of gravity of the heinous offence committed by the petitioner.



9. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 provide insight as to what objects are achieved by releasing a convict on parole. The said rules read as under:

“1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:

- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self- confidence,
- iii. To enable him to develop constructive hope and active interest in life,
- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and
- vii. To motivate him to maintain good conduct and discipline in the prison...”

10. Further, Rule 1208 provides ‘maintaining family and social ties’ as one of the grounds for seeking grant of parole. Rule 1210 prescribes certain criteria to be eligible for release on parole and undoubtedly, the present petitioner fulfills the said criteria. Thereafter, Rule 1211 also provides that in certain cases as mentioned in the said rule, the competent authority will grant parole only in cases of special



circumstances, and a perusal of the same reveals that the case of petitioner herein also does not fall within the parameters of said rule.

11. Having remained in judicial custody for more than 12 years without getting released on parole/furlough on any occasion, the petitioner has now approached this Court seeking parole only for a period of one month for re-establishing social and family ties.

12. In the present case, a perusal of the nominal rollof the petitioner reveals that he was arrested on 08.06.2011 and he has remained in judicial custody for a period of about 12 years and 03 months, excluding the period of remission which is more than 10 months. The nominal roll also reflects that the petitioner has been working as a factory sahayak in the jail and his conduct for the last one year in the jail has been satisfactory. However, the overall jail conduct of the petitioner has been reported to be unsatisfactory, but the same has been reported to be such only in view of one punishment dated 06.08.2020 which was in relation to recovery of Rs.2,000/-currency note and loose tobacco from his cell, for which *mulaqat* for 21 days had been stopped. However, it is not in dispute that other than the said punishment dated 06.08.2020, after which more than three years have elapsed now, no other punishment has been awarded to him at any point of time and otherwise, his conduct has remained satisfactory in the jail. The record also reveals that the petitioner had earlier been granted interim bail from 07.06.2015 to 19.06.2015 and from 10.05.2018 to 13.05.2018 by the learned Trial Court during the course of trial and as per records, the petitioner had never misused the liberty of bail granted to him.



13. This Bench earlier in case of *Kundan Singh v. The State (Govt.) of NCT of Delhi W.P. (Crl.) 2027/2022* had also observed that sensitivity and compassion ought to be balanced with rules regulations by any Court as one is dealing with humans and not mere files and orders.

14. Thus, in view of the foregoing discussion, this Court is inclined to grant parole to the petitioner for a period of four (04) weeks, subject to following conditions:

- i. 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.
- ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM and shall not leave the National Capital Territory of Delhi during the period of parole.
- iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of local police station, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.
- iv. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
- v. The period of parole shall be counted from the day when the petitioner is released from jail.



15. Accordingly, the present petition stands disposed of in above terms.
16. A copy of this order be sent by the Registry to the concerned Jail Superintendent for information.
17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 17, 2023/dk