



2023:DHC:7279



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

% **Reserved on: 29.08.2023**

Pronounced on: 06.10.2023

+ **W.P.(CRL) 1992/2023**

SIKANDER

..... Petitioner

Through: Mr. Vishesh Wadhwa and Mr.
Arjun Gupta, Advocates.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Mr. Sanjay Lao, Standing
Counsel for the State with Mr.
Priyam Aggarwal, Mr.
Abhinave Kumar Arya and Mr.
Shivesh Kaushik, Advocates
with SI Arvind Verma, P.S.
Gokalpuri.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J

1. The present Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner for issuance of writ of certiorari for quashing the order dated 16.06.2022 passed by GNCT of Delhi rejecting the application of the petitioner seeking parole and also for issuance of writ of mandamus directing the respondent to release the petitioner on parole for a period of eight weeks.



2. In brief, the case of petitioner is that he was awarded sentence R.I. for life, vide order dated 20.08.2014, for the offences punishable under Sections 302/307/452/34 of Indian Penal Code, 1860, in case FIR bearing no. 313/2005, registered at Police Station Gokul Puri, New Delhi. His appeal against conviction was dismissed by this Court vide judgment dated 20.11.2015. In relation to this case, the petitioner has undergone almost 17 years and 11 months in jail.

3. It is stated by learned counsel for petitioner that petitioner has been released on parole three times by this court vide order dated 30/05/2016, 11/07/2018 and 20/11/2020. It is further submitted by learned counsel for petitioner that petitioner seeks parole to re-establish social ties and to curb inner stress and to offer prayer on the grave of his mother and younger brother. It is further submitted that competent authority/Respondent has failed to appreciate that the conduct of petitioner has been satisfactory in jail since the past 1.5 years.

4. On the other hand, learned standing counsel for the State has opposed the grant of parole on the ground that conduct of petitioner is unsatisfactory in view of multiple punishments.

5. Heard the learned counsels for petitioner as well as State.

6. In the instant case, the petitioner had filed an application before the respondent for grant of parole which was dismissed by the respondent vide order dated 16.06.2023 by observing that

“1. The convict is not entitled for parole in view of Rule 1210 sub rule (II) and Rule 1212 Note (2) of Delhi 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 the application and the conduct of the 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 the application". In this case, as per record, said convict has been awarded multiple punishments.

Punishment dated 31.01.2022 awarded to the above said convict is a major punishment as per Rule 1271 of Delhi Prison Rules-

Rule 1212 Note (2):- "Simultaneous parole to co-accused is ordinarily not permissible, however, in exceptional circumstances competent authority may consider for reasons in writing for granting parole to co-accused who are family members". In this case, as per nominal roll point no.21, his one co-accused namely Rashid S/o Md. Akeel was released on emergency parole on 15.05.2021 from CJ-02, Tihar, Delhi and presently he is on emergency parole.

2. As per Rule 1211 of Delhi Prison Rule-2018, which provide that:- "In the following cases, parole shall not be granted, except if in the discretion of the competent authority special circumstances exist for grant of parole; (VIII). If prisoner is convicted for multiple murders whether in single case or several cases". In this case, as per crime detail, said convict held guilty for committing murder of two persons i.e. namely Reshma & Aziz-ul-hasan.

Further, as per report from the office of the D.G (Prisons), it is stated that the request for grant of parole on the grounds of social ties with the society and family, being generic, does not attract exceptional conditions to qualify relief under Rule 1211 of DPR-18. As per nominal roll, the overall jail conduct of said convict is reported to be unsatisfactory. "



7. This Court notes that the present petition is filed for releasing the petitioner on parole for a period of eight weeks to re-establish social ties with the family members and society, as well as to curb inner stress and to offer prayer on the grave of his mother and younger brother. Attention of this Court was also drawn to the fact that present petitioner is in judicial custody for almost 18 years, without remission, and that the overall conduct of the petitioner is satisfactory. It is not disputed that petitioner was granted parole on three occasions but he did not misuse the parole.

8. Needless to say, while dealing with an issue relating to grant of parole to a convict, the Courts are required to balance the interests of convict as well as of the society. However, the Courts are also required to consider cases, such as present one, with sensitivity and compassion, and an opportunity may be provided to a convict to re-establish social ties.

9. Considering the overall facts and circumstances of the case, the present petition is allowed. The petitioner is granted parole for a period of four weeks from the date of his release, 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 of the petitioner, to the satisfaction of the Jail Superintendent,
- b) The petitioner shall provide his mobile phone number to the concerned Jail Superintendent and SHO concerned at the



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time of release, which shall be kept in working condition at all times;

c) The petitioner shall not leave the NCT of Delhi without the prior permission of this Court and shall reside at the address as per prison records;

d) The petitioner shall present himself before the S.H.O. P.S. Gokul Puri every third day between 11:00 AM and 11:30 AM to mark his presence. However, he will not be kept waiting longer than an hour for this purpose;

e) The petitioner shall positively surrender before the concerned Jail Superintendent on the expiry of the period of 4 weeks from the date of his release.

10. Therefore, the present petition is disposed of accordingly.

11. A copy of this order be sent forthwith to concerned Jail Superintendent and SHO, P.S. Gokul Puri, through electronic mode.

RAJNISH BHATNAGAR, J

OCTOBER 06, 2023/p