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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) 2220/2023**

NARESH @ RAJU

..... Petitioner

Through: Mr. Ashutosh Kaushik, Mr. R
John, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amol Sinha, ASC for
State with SI Himanshu, PS
Nihal Vihar, Mr. Kshitiz Garg,
Mr. Ashvini Kumar, 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 06.07.2023 passed by respondent, and issuance of writ in the nature of mandamus directing respondent to release petitioner on parole for a period of ninety days.



2. The petitioner is presently confined in Central Jail no. 8/9, Tihar, New Delhi. By virtue of judgment dated 11.10.2019, the petitioner was convicted under Section 302/307/34 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* 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 and the sentences were to run concurrently. His appeal against conviction i.e. Crl. Appeal no. 10/2020 was dismissed by this Court *vide* judgment dated 28.04.2022.

3. The petitioner seeks parole for a period of ninety days on the grounds for changing the documents and other details in ID proofs of senior citizen mother, minor son and daughter and also for arranging funds and resources for their education and well being.

4. Learned counsel for petitioner states that the mother of petitioner had applied for grant of parole for his son i.e. petitioner before the concerned authorities, but the said application was dismissed *vide* order dated 06.07.2023 on erroneous grounds and irrelevant considerations. It is stated that petitioner had remained in judicial custody for about 11 years and 04 months and his jail conduct of last one year as well as overall conduct has been satisfactory barring two minor punishments. It is also stated that the petitioner had earlier been released on interim bail and HPC guidelines by this Court and he had not misused the liberty granted to



him. It is also submitted that this Court had granted parole to the petitioner from 16.11.2022 to 01.12.2022 for filing SLP before the Hon'ble Apex Court and the petitioner had surrendered on time. 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 on two occasions when he was granted interim bail, he had surrendered late after the expiry of interim bail. 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 06.07.2023 *vide* which the parole application of the petitioner was rejected reads as under:

“...With reference to your office letter F.8/9/SCJ-8/9/AS(CT)/2023/1138 dated 07.06.2023, 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 in view of the followings:-

1. As per nominal roll, the Special Leave Petition file by the above said convict is already pending before the Hon'ble Supreme Court of India.
2. Further, as per nominal roll, a misconduct is also reported against the said convict as he surrendered late from Interim Bail granted by the Hon'ble High Court of Delhi...”

8. Thus, the application for grant of parole filed by the petitioner had been rejected by the respondent on the ground of pendency of Special Leave Petition before the Hon'ble Apex Court and the fact



that the petitioner had surrendered late once after being granted interim bail by this Court.

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. Rule 1210 prescribes certain criteria to be eligible for release on parole and the petitioner evidently 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 11 years, the petitioner has now approached this Court seeking parole on the grounds for changing the documents and other details in ID proofs of senior citizen mother, minor son and daughter and also for arranging funds and resources for their education and well being.

12. In the present case, a perusal of the nominal roll of the petitioner reveals that he was arrested on 08.06.2011 and he has remained in judicial custody for a period of about 11 years and 04 months, excluding the period of remission which is more than 08 months. The nominal roll also reflects that the petitioner has been working as a sahayak in the jail kitchen and his conduct for the last one year in the jail has been satisfactory. Further, the overall jail conduct of the petitioner has also been reported to be satisfactory, except two punishments, but the same relates to the years 2013 and 2019. The record also reveals that the petitioner had earlier been granted interim bail from 23.01.2020 to 22.03.2020 by this Court and he had surrendered late by one day. He had also been granted interim bail on 22.07.2020 for a period of 08 weeks but the same had got extended till 19.03.2021 due to outbreak of Covid-19. The record shows that the petitioner had surrendered 15 days late after the expiry of said period, however, the same cannot be the sole ground to deny the parole to petitioner especially considering the level of outbreak of Covid-19 in the months of March/April 2021 and further in view of



the fact that petitioner had also been released on parole for a period of 02 weeks from 16.11.2022 to 01.12.2022 for filing SLP before the Hon'ble Apex Court and he had surrendered within the said time period and the SLP on behalf of petitioner also stands filed before the Hon'ble Apex Court.

13. One cannot also ignore the family exigencies that may have arisen during such a long period and the fact that petitioner may have to look after the needs of his minor son and minor daughter, both aged around 14 years, including their continued access to education. 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 judgment 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