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

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Reserved on: 19.12.2023
Pronounced on: 22.12.2023

+ **W.P.(CRL) 3445/2023**

RAHUL DEV

..... Petitioner

Through: Mr. Shannu Baghel, Mr. Surender Kumar, Ms. Neha Kumari and Ms. Devika Patel, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC (Criminal) with Mr. Kunal Mittal, Mr. Arjit Sharma, Ms. Rishika, Advocates for the State and Insp. Naresh Kumar, PS: Maurya Enclave.

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 no. F18/171/2017HG/3311-12 dated 16.11.2023 passed by respondent,



and/or issuance of writ in the nature of mandamus directing respondent to release the 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 29.08.2014, the petitioner was convicted under Section 302/201 of Indian Penal Code, 1860 (‘IPC’) in case arising out of FIR bearing no. 303/2009, registered at Police Station Maurya Enclave, New Delhi and *vide* order on sentence dated 30.08.2014, he was sentenced to undergo rigorous imprisonment for life alongwith payment of fine of Rs. 7,000/-. His appeal against conviction i.e. CRL.A.229/2015 was dismissed by this Court *vide* judgment dated 31.05.2017. The Special Leave Petition filed by the petitioner before the Hon’ble Apex Court was also dismissed *vide* order dated 03.12.2018.

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

4. Learned counsel for petitioner states that the petitioner had preferred an application on 16.07.2023, before the respondent, seeking grant of parole, but since the authorities had failed to decide the same within a reasonable period of time, he was compelled to approach this Court by way of a writ petition i.e. W.P.(Crl) 3029/2023. It is further stated that this Court *vide* order dated 16.10.2023 had observed that the respondent will decide the application for parole filed by the petitioner within a period of two weeks. Learned counsel for the petitioner submits that *vide* order dated 16.11.2023, the respondent has rejected the application filed by



the petitioner on the ground that he had jumped the furlough which was granted to him in April, 2019 and was arrested thereafter in September, 2021. It is argued that the petitioner has already suffered punishment for the misconduct i.e. non-surrender on expiry of furlough, and more than two years have passed since the said incident. It is also stated that the conduct of the petitioner in last one year has been satisfactory, and he has been working as a legal *sahayak* in the jail and has been consistently rewarded by the jail authorities for his efforts and contribution. It is also argued that the petitioner has remained in jail for more than 12 years, and he seeks release on parole for curbing inner stress and re-establishing ties with his family members and society. Therefore, it is prayed that present petition be allowed and the petitioner be released on parole for a period of four weeks.

5. Learned ASC for the State, on the other hand, submits that the petitioner was released on furlough for two weeks, by the respondent on 11.04.2019, however, he had failed to surrender on 25.04.2019. It is stated that the petitioner was eventually after a period of more than two years i.e. on 03.09.2021 and was awarded a major punishment. Therefore, it is stated that since the overall conduct of the petitioner has not been satisfactory, the petitioner be not released on parole.

6. This Court has heard arguments addressed by learned counsel for petitioner as well as learned ASC for the State, and has perused the material placed on record.

7. The order dated 16.11.2023, *vide* which the parole application of the petitioner was rejected by the respondent, reads as under:



“...In this regard, I am to inform you that the request in respect of this 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. The convict is not entitled for Parole in view of Rule 1210 sub rule (IV) of Delhi Prison Rules- 2018, which states that:

1210 sub rule (IV):- *"The convict should not have violated any terms and conditions of the Parole or Parole granted previously"*. In this case, the above said convict was released on 02 weeks furlough w.e.f. 11.04.2019 to 26.04.2019 granted by DG (P) but he jumped and re-arrest in the same case on 03.09.2021.

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; (III). Prisoners who are considered dangerous or have been involved in serious prison violence like assault, outbreak of riot, mutiny or escape, or rearrested who absconded while released on parole or furlough or who have been found to be instigating serious violation of prison discipline as per the reports in his/her annual good conduct report"*. In this case, the aforesaid convict was released on 02 weeks furlough w.e.f. 11.04.2019 to 25.04.2019 granted by DG (P) but he jumped the same and re-arrested in same case on 03.09.2021.

3. As per recommendations received from the office of the DG (Prisons), it is recommended that the request for grant of parole on the grounds of social ties being generic, does not attract exceptional conditions to qualify relief under rule 1211 of Delhi Prison Rules-2018..."

8. Thus, the application for grant of parole filed by the petitioner has been rejected by the respondent, primarily considering the fact that he had not surrendered on expiry of furlough and was later arrested after two years and five months.

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. 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.

11. As per the impugned order, the petitioner’s plea for being released on parole has been denied, keeping in view two rules of Delhi Prison Rules i.e. Rule 1210 (IV) and Rule 1211 (III), which makes the petitioner ineligible to seek parole since he had failed to



fulfill the conditions of furlough granted to him and had absconded thereafter and had to be re-arrested.

12. In the present case, a perusal of the Status Report prepared by the Jail authorities reveals that the petitioner, as on 15.12.2023, has remained in judicial custody for a period of about 12 years and 01 month, and has earned a remission of 02 years 04 months and 07 days. The jail conduct of last one year, of the petitioner, is satisfactory. The overall jail conduct of the petitioner is however unsatisfactory, but the same is due to him having jumped the furlough in the year 2019 and thereafter getting arrested in the year 2021. This Court, however, notes that more than two years have elapsed since the petitioner was re-arrested by the jail authorities. As a punishment, 07 days mulakaat facility of the petitioner had also been stopped.

13. The petitioner had earlier also been released on parole and furlough on several occasions and he had not misused the liberty granted to him, except in the year 2019, observations qua which have already been recorded in the preceding paragraph. While going through the record, this Court also takes note of the fact that the petitioner has been working as a legal *sahayak* in the jail. He has also placed on record, the Certificates of Recognition issued by the Superintendent, Central Jail No. 14, Mandoli, on 15.08.2022 and 15.08.2023, whereby the petitioner has been appreciated for his good conduct, hard work, supportive approach and excellent services as legal *sahayak* in the prison.



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.15,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent concerned.
- ii. The petitioner shall furnish the address where he shall reside during the period of parole to the Jail Superintendent, as well as the details of local Police Station in that area.
- iii. 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, during the period of parole.
- iv. 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.
- v. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
- vi. 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 Jail Superintendent for information.
17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 22, 2023/at