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

+ **W.P.(CRL) 67/2024**

VIPIN KUMAR SALUJA

.....Petitioner

Through: **Ms.Sunit Arora,** Advocate
(DHCLSC).

versus

STATE GNCT OF DELHI

.....Respondent

Through: **Mr.Yasir Rauf Ansari, ASC (Crl.) for**
State with Mr.Alok Sharma and
Mr.Vasu Agarwal, Advocates
alongwith SI Satyawan, Spl. Cell,
NR4 STF, Rohini.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

19.07.2024

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1. Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner with the following prayers:-

"I. Issue a writ in the nature of Certiorari for quashing the Order No.F.18/22112018/HG/3630 DATED 18.12.2023, passed by the Respondent;

II. Issue a writ in the nature of Mandamus directing the Respondent to release the Petitioner on parole for a period of 02 MONTHS, for re-establishing social and family ties, in case FIR NO. 17/2008, U/S 302/2011397/364/411/120-B IPC, PS: SPL. CELL ROHINI.

2. Petitioner is aggrieved against rejection of his application for parole by the Competent Authority vide order dated 18.12. 2023 which is reproduced for reference:



“1. The convict is not entitled for parole in view of **Rule 1210 sub rule (II) 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 application and the conduct of Prisoner who has been awarded minor punishment or no punishment for any offence in prison should have been uniformly good for last one year from the date of application”. In this case, punishment dated 13.09.2022 awarded to the above said convict is a major punishment as per Rule 1271 of Delhi Prison Rules, 2018.

2. Further, as per nominal roll, overall jail conduct of said convict is reported to be unsatisfactory being multiple punishments.”

3. Learned counsel for the petitioner submits that the petitioner had been earlier granted parole from 09.05.2022 to 07.06.2022 by the Competent Authority after the alleged incidents of ‘unsatisfactory behavior’ during 2015, 2017 and 2019. She further submits that the alleged unsatisfactory behaviour with the staff relates to an incident dated 13.09.2022 whereupon ‘canteen and inmates calling facilities’ were stopped for two weeks and no incident has been reported thereafter. The parole is stated to have been wrongly declined by the competent authority. Reliance is further placed upon **Amar Pal v. State (NCT of Delhi)**, W.P.(CrI.) 123/2024, decided on 07.03.2024 and **Kaushal v. The State (Govt. of NCT) Delhi**, W.P.(CrI.) 3149/2023, decided on 08.01.2024.

4. The order passed by the Competent Authority is supported by learned ASC for State and the prayer for grant of parole is opposed.



5. The principles for grant of parole and furlough in Delhi Prisons Rules, 2018, have been noticed by this Court in *Sikander vs. State of Delhi*, 2022 SCC OnLine Del 1641 and may be beneficially reproduced:

“5. I have given considered thought to the contentions raised.

It may be noticed that Chapter XI Delhi Prison Act, 2000 (hereinafter referred to as the ‘said Act’) deals with prison offences. Section 46 enlists prison offences and Section 47 provides punishment for such prison offences. Section 54 provides for punishment for not fulfilling conditions subject to which remissions etc. was given and where any prisoner fails without sufficient cause to observe any of the conditions, or subject to, which his sentence was remitted, suspended or he was released on parole or furlough, the Competent Authority may cancel such order granting remission, suspension, parole and furlough. As such, the maintenance of prison discipline is imperative, both from the perspective of administration as well as to ensure safe custody and security of other prisoners and in case of failure to observe any of the conditions, cancellation of beneficial order may be passed.

Under Section 71 of the said Act, the Government has been empowered for making the rules generally to carry out the provisions of the Act and specifically to provide for or any of the matters listed in Section 71 (2) of the said Act. Chapter XIX of Delhi Prison Rules, 2018 framed in pursuance of power conferred under Section 71 of the Delhi Prison Act, 2000 deals with parole and furlough. The purpose of parole and furlough as provided in Rule 1197, is a progressive measure of correctional services. The release of prisoner on parole saves the prisoner, not only from the evils of incarceration but also enables him to maintain social relations with his family and community. Further, the release of prisoner on furlough motivates him to maintain good conduct and remain



disciplined in the prison. However, it may be noticed that period spent by prisoner outside the prison while on parole in no way is a concession, so far as his sentence is concerned and the prisoner has to spend extra time in prison for the period spent by him outside the Jail on parole. On the other hand, furlough is purely an incentive for good conduct in the prison and, therefore, the period spent by the prisoner outside the prison on furlough shall be counted towards his sentence. The same is granted after a gap of certain qualified number of years of incarceration for maintaining good conduct.

6. *The objectives for releasing a prisoner on parole or furlough are further specified in Rule 1200. Rule 1208 further lays down that subject to fulfillment of conditions stipulated in Rule 1210, it would be open to the Competent Authority to consider the applications for parole on the grounds provided therein. Though, one of the purposes for grant of parole is to maintain family and social ties but the same cannot be oblivious of the jail conduct of the prisoner and is circumscribed by Rule 1210 as well as Rule 1211 of Delhi Prison Rules, 2018.*

7. *In terms of Rule 1210 of Delhi Prison Rules, 2018 in order to be eligible to be released on parole, 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 application and conduct of 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 application.*

8. *Further, Rule 1211 provides the category of cases in which the parole shall not be granted, except if in discretion of the Competent Authority special circumstances exist for grant of parole.*

Rule 1211 (III) and (VIII) may be beneficially reproduced which read as under:-



“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

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VIII. If prisoner is convicted for multiple murders whether in single case or several cases.””

6. In view of aforesaid legal position, merely because the petitioner had been earlier released on parole cannot be a ground that he is entitled to be automatically released on parole without consideration of his subsequent conduct. If the petitioner has been inflicted a major punishment on account of his conduct being unsatisfactory, the petitioner cannot claim parole as a matter of right. There is no dispute as to the proposition that parole may be granted to establish social ties but the same needs to be assessed in the light of the jail conduct of the prisoners as prescribed in Rules 1210 and 1211 of the Delhi Prisons Rules, 2018.

7. So far as the present case is concerned, it is admitted by the learned counsel for the petitioner that major punishment was imposed upon the petitioner under the Delhi Prisons Rule, 2018, which has not been set aside. No other mitigating circumstances have been brought on record. Considering the facts and circumstances, order passed by the Competent Authority does not suffer from any perversity and is in consonance with the Delhi Prisons Rules, 2018.



7. At the same, the salutary purpose for grant of parole, cannot be overlooked. It has also been observed in *Puran Prasad v. State of NCT of Delhi*, W. P. (Crl) 2452/2023 decided on 11.12.2023 by a co-ordinate Bench of this Court that only because convict had jumped bail on previous occasion, parole cannot be denied in perpetuity.

In the facts and circumstances, since the petitioner has not been able to avail the benefit of parole for a period of about 02 years since 09.05.2022 and has already undergone punishment whereby canteen and inmate calling facility was stooped for two weeks, if a fresh application is preferred by the petitioner for grant of parole, the same shall be considered by the competent authority without insisting for expiry of two years from the date of last punishment, (i.e. 13.09.2022).

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of. A copy of this order be forwarded to Superintendent Jail for information and compliance.

ANOOP KUMAR MENDIRATTA, J

JULY 19, 2024/v