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

+ **W.P.(CRL) 123/2024**

AMAR PAL

..... Petitioner

Through: **Mr. Siddharth Vasan, Advocate.**

versus

STATE (NCT OF DELHI)

..... Respondent

Through: **Ms. Nandita Rao, ASC for State with
Ms. Anuka Bachawat, Advocate with W/SI
Ankesh Meena, PS Sangam Vihar.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

07.03.2024

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1. This writ petition has been filed on behalf of the Petitioner Amar Pal S/o Chanda under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of order dated 29.11.2023 passed by the Respondent, rejecting the application of the Petitioner for grant of parole as well as for a direction in the nature of writ of mandamus to the Respondent to grant parole for a period of 60 days in FIR No. 560/2008 under Sections 376/506 IPC, registered at PS: Sangam Vihar.

2. Petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. Aforementioned FIR was registered against the Petitioner and after trial, he was acquitted by the Trial Court on 18.07.2011. However, in appeal by the State being CRL. A. No. 1309/2013, this Court convicted the Petitioner for offences under Sections 376/506 IPC and awarded sentence of RI for 10 years with fine of Rs.25,000/- and in default SI for 12 months. Petitioner has already undergone 05 years 07 months and 20 days of custody including trial period as on 29.01.2024 with remission of 05 months and 12



days. Unexpired portion of the sentence is 03 years 10 months and 28 days. Petitioner was granted parole by this Court on 14.02.2023 in W.P. (CRL.) No. 144/2023. Thereafter, he applied for parole through his wife and *paikar* on 15.09.2023 which was rejected by the impugned order.

3. Perusal of the impugned order dated 29.11.2023 shows that application for parole was rejected on the ground that a major punishment was awarded to the Applicant on 11.03.2022 and therefore, Rule 1210(II) of Delhi Prison Rules, 2018, creates an impediment for grant of parole. Rejection is also on the ground that Rule 1210(III) places an embargo on the grant of parole to a prisoner if during the period of release on parole or furlough, if granted earlier, the convict commits any crime. Petitioner was released on 06 weeks parole for the period 28.05.2020 to 09.07.2020, extended from time to time till 27.03.2021, on account of Pandemic COVID-19, however, he did not surrender on time and jumped the parole and was rearrested in another case FIR No. 369/2021 under Sections 186/353/332/333/307/34 IPC.

4. Status report has been filed which largely contains averments pertaining to the merits of the case and gives details of the number of family members comprising of the family of the Applicant and contains no specific response with respect to the reasons for rejection of parole contained in the impugned order.

5. From a reading of the impugned order, whereby the parole application has been rejected, it is manifest that the prime ground for rejection is the punishment awarded to the Petitioner on 11.03.2022 for jumping parole granted for 06 weeks from 28.02.2020 to 09.07.2020, extended from time to time till 27.03.2021 and the re-arrest of the Petitioner in case FIR No.



369/2021. It is palpably clear from the latest nominal roll dated 01.02.2024 that Petitioner was re-arrested on 28.10.2021 after he jumped parole and punishment was awarded on 11.03.2022. No other punishment has been awarded to the Petitioner and his jail conduct is otherwise 'satisfactory'. It is clear that parole has been rejected, oblivious of the fact that in W.P. (CRL.) 144/2023, this Court had, vide order dated 14.02.2023, taking into account the punishment dated 11.03.2022, granted parole to the Petitioner for a period of 04 weeks, which the Petitioner availed of and surrendered on time. Therefore, the same very punishment cannot form the basis of the rejection of the present parole application. In ***Asfaq v. State of Rajasthan and Others, (2017) 15 SCC 55***, the Supreme Court made the following observations elucidating the objective of grant of parole in the context of reformatory measures:-

"17. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this theory underlines is that even such convicts have right to breathe fresh air, albeit for (sic short) periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.

18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.



19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become a threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.

20. Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that they aspire to live as law-abiding citizens. Thus, parole programme should be used as a tool to shape such adjustments."

6. This Court has been consistently holding that only because a convict has jumped parole granted on the previous occasion, he cannot be denied parole in perpetuity for the remaining period of conviction. [**Ref. *Puran Prasad v. State of NCT of Delhi, W.P. (CRL.) 2452/2023*, decided on 11.12.2023]**]

7. For the aforesaid reasons, it is directed that Petitioner be released on parole for a period of six weeks from the date of his release, subject to the following conditions:

- 1) Petitioner shall furnish a personal bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent;
- 2) He shall provide his mobile number to the SHO of local Police Station and shall keep the active at all times and shall report once in a week;



- 3) He shall not leave the country without prior permission of this Court;
 - 4) He shall not indulge in any criminal activity, directly or indirectly, during the period of parole; and
 - 5) He shall surrender before the concerned Jail Superintendent on expiry of the parole period.
8. Petition stands disposed of in the aforesaid terms.
9. Copy of the order shall be sent to the concerned Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

MARCH 07, 2024/pa/shivam