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

% **Date of Decision: 05.02.2024**

+ **W.P.(CRL) 396/2024**

VINOD @ VINODA

..... Petitioner

Through: Mr. Zeeshan Diwan
(DHCLSC) and Ahmed Faraz,
Advocates

versus

THE STATE (GOVT OF NCT, DELHI) Respondent

Through: Mr. Amol Sinha, ASC for the
State with Mr. Ashvini Kumar,
Mr. Arjun Singh Kadian,
Advocates and SI Yatender
Singh, P.S. New Ashok Nagar

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (oral)

CRL.M.A. 3611/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(CRL) 396/2024

3. The instant 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 filed on behalf of petitioner seeking following prayer:



“a. Issue a Writ of Certiorari for quashing the order No. F. 18/128/2016/HG/131 dated 15.01.2024 passed by the Govt. NCT of Delhi rejecting the parole application of the petitioner.

b. Issue a Writ of Mandamus or any other Writ, directing the Respondent to release the Petitioner on parole for a period of two (02) months "To Maintain Social ties & Family Relations and To Curb Inner Stress and to take care of his ailing wife".

4. The petitioner herein was convicted, *vide* order dated 30.08.2013, for the offences punishable under Sections 364A/368/344/347/120B/34 of Indian Penal Code, 1860 ('IPC'), in case FIR bearing no. 393/2007, registered at Police Station New Ashok Nagar, New Delhi and was awarded rigorous imprisonment for life. His appeal against conviction was dismissed by this Court *vide* judgment dated 25.02.2016.

5. As disclosed from the petition, the petitioner had applied for grant of parole on 01.12.2023 *vide* dispatch No. F.No.8/9/SCJ/AS(CT)/2023/2265, through Superintendent Jail No. 8 & 9, Tihar, New Delhi, before the office of The Deputy Secretary (Home), Govt. of Delhi. The application preferred by the petitioner was rejected *vide* letter F.18/128/2016/HG/131 dated 15.01.2024 by the respondent, *vide* following order:

“1. The convict not entitled for parole in view of Rule 1210 Sub Rule (III) and (IV) Delhi Prisons Rules 2018, which states that:

Rule 1210 Sub Rule (III):- "During the period of release on parole or furlough, if granted earlier, the convict should not have committed any crime"



Rule 1210 Sub Rule (IV)- "The convict should not have violated any terms and condition of parole or furlough granted previously". In this case, the above said convict was released on emergency parole on 15.05.2021, which was extended time to time due to Covid- 19 Pandemic situation but he was re-arrested on 14.08.2021 in another case FIR No.210/2021 U/s 25 Arms Act, PS Special Cell, Delhi.

2. Further, as per nominal roll, the above said convict was also convicted in another five cases. Two cases are also pending against him. Police authority has also not recommended grant of parole to the above said convict.

6. Learned counsel for the petitioner argues that the rejection order passed by the respondent is contrary to the law and right to equal treatment as prescribed under Article 14 of the Constitution of India. It is stated that the petitioner is fully eligible for grant of parole as the rejection order dated 15.01.2024 passed by the respondent is not tenable in the eyes of law and the same is based on pre-conceived assumptions and the grounds taken therein are based on extraneous and irrelevant considerations and thus, the order is liable to be set aside. It is argued that the respondent has failed to appreciate the fact that petitioner has already undergone about 16 years of incarceration in actual, without remission, out of imprisonment for life. It is further submitted that the petitioner has been granted parole thrice and furlough on seven occasions in past, and he had not misused the liberty. It is stated that with respect to the emergency parole granted during the Covid-19 pandemic period, the petitioner was re-arrested on 14.08.2021 after an FIR for offence under Section 25 of Arms Act was registered against him. However, in the said FIR, he had been



granted bail vide order dated 28.10.2021, and thus, the same cannot be ground to dis-entitle the petitioner from seeking parole. It is further pointed out that the petitioner had previously filed *Writ Petition (Crl.) No.89/2023* for issuance of writ of certiorari for quashing the order dated 18.11.2022 passed by respondent, rejecting the application of the petitioner seeking parole for a period of three months, and this Court *vide* its judgment dated 17.01.2023 had allowed the petition and granted parole for a period of three months to the petitioner. Therefore, it is prayed that present petition be allowed.

7. On the other hand, learned ASC for the State opposes the grant of parole on the grounds, mentioned in the rejection order dated 15.01.2024 passed by the respondent. It is also submitted that considering the involvement, including convictions, of the petitioner in several other criminal cases, he be not granted parole.

8. This Court has heard arguments addressed by learned counsel for the petitioner as well as learned ASC for the State, and has also perusal the material on record.

9. The petitioner has sought parole for a period of two months for maintaining social ties and family relations and for curbing inner stress.

10. In the present case, the nominal roll of the petitioner reflects that the petitioner has undergone incarceration of more than 15 years and 09 months, excluding remission of 02 years and 11 months. The petitioner had earlier been released on furlough on seven occasions and parole on two occasions between the period 2018 to 2020.



Thereafter, he was also released on emergency parole from April 2020 to February 2021. On these occasions, the petitioner had never misused the liberty granted to him and there are no adverse reports on record, to the contrary. He was again released on emergency parole in May, 2021, however, was arrested on 14.08.2021 in another case FIR No. 210/2021, under Section 25 of Arms Act, P.S. Special Cell, Delhi. Thereafter, the petitioner's application for grant of parole was rejected by the competent authority *vide* order dated 18.11.2022. However, this Bench in judgment dated 17.01.2023 reported as ***Vinod v. State (NCT of Delhi) 2023 SCC OnLine Del 252*** had granted parole to the petitioner for a period of three months. On the expiry of said period of parole, the petitioner had duly surrendered before the jail authorities.

11. Now, after a period of one year, the petitioner's application seeking parole has again been rejected by the competent authority *vide* order dated 15.01.2024, on grounds which are identical to those mentioned in order dated 18.11.2022 which was under challenge in *W.P.(Crl.) No. 89/2023*. As noted above, the petitioner had duly surrendered after the expiry of period of last parole granted to him, and had not misused the liberty granted him. This Court notes that the conduct of the petitioner for last one year has been satisfactory, and he has been working as washing plant *sahayak*. The overall conduct is unsatisfactory, but only on account of his re-arrest in August 2021, during the period of parole, in another case.

12. Rule 1197 and 1200 of Delhi Prison Rules, 2018, 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..."

13. As per nominal roll, the petitioner has remained in judicial custody for more than 15 years and 09 months. Considering the overall facts and circumstances of the case, the present petition is allowed. The petitioner is granted parole for a period of one (01) month, subject to the following conditions:-

- a) The petitioner shall furnish personal bond in the sum of Rs.15,000/- with one surety of the like amount, who shall be a family member of the petitioner, to the satisfaction of the



Jail Superintendent.

- b) During the period of parole, the petitioner shall stay within the limits of District Firozabad, Uttar Pradesh, except to travel to and from Central Jail, Tihar, Delhi, and shall ordinarily reside at the address mentioned in this application i.e. House in Village KhanjaPur Ki Beach Ki Thar, Matsena Road, Post Gazipur, Firozabad, Uttar Pradesh
- c) The petitioner will report on every Sunday to the SHO of concerned Police Station in Firozabad, Uttar Pradesh, which exercises jurisdiction over the aforesaid residence of petitioner, between 11 am and 11:30 am for marking his appearance. However the petitioner will not be kept waiting for longer than one hour at the police station during such visits. Further, before his release on parole, the petitioner shall inform to this Court as well as to the Jail Superintendent about the details of Police Station in District Firozabad within whose jurisdiction the residence of petitioner is situated and where the petitioner has been directed to report during the period of parole.
- d) The petitioner shall furnish a telephone/mobile number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also inform his telephone/mobile number to the SHO of the Police Station concerned in District Firozabad, Uttar Pradesh.
- e) If the petitioner has a passport, he shall also surrender the same to the Jail Superintendent.



- f) Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
 - g) The period of parole shall be counted from the day when the petitioner is released from Jail.
14. In the above terms, the present writ petition stands disposed of.
15. A copy of this judgment be sent by the Registry to the Jail Superintendent for information and compliance.
16. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 5, 2024/ns