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

+ **W.P.(CRL) 401/2024**

BAGENDER MANJHI

..... Petitioner

Through: Mr. Shiv Chopra & Mr.
Siddharth Arora, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Yasir Rauf Ansari,
ASC (Criminal) with Mr.
Mohit Raj Nagar, Mr. Alok
Sharma & Mr. Vasu
Agarwal, Advs. for the
State with Insp. Seeta Ram,
PS Lodhi Colony.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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06.02.2024

CRL.M.A. 3707/2024 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973('Cr.P.C.'), seeking parole for a period of two months in order to enable the petitioner to file a Special Leave Petition ('SLP') before the Hon'ble Supreme Court.

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4. The petitioner was convicted for the offences punishable under Section 376(2)(f) of the Indian Penal Code and Section 6 read with Sections 5/3 of the Protection of Children from Sexual Offences Act, 2012, and was sentenced to undergo rigorous imprisonment for life.

5. The appeal filed by the petitioner challenging the order of conviction and order of sentence was dismissed by this Court by order dated 18.10.2022.

6. The petitioner applied for grant of parole. However, the same was rejected by impugned order dated 17.11.2023. The respondent held the request for grant of parole on the ground of filing SLP before the Hon'ble Supreme Court being generic and that the same does not attract exceptional conditions to qualify relief under Rule 1211 of Delhi Prisons Rules, 2018.

7. The learned counsel for the petitioner submits that this Court as well as other High Courts in number of cases have categorically held that filing of an SLP challenging the order of conviction does constitute special circumstances.

8. The Nominal Roll indicates that the petitioner was released on furlough from 14.03.2023 to 05.04.2023. The learned counsel for the petitioner submits that at that stage, the petitioner did not take steps to file an SLP challenging the order dated 18.10.2022 passed by this Court. However, he now seeks to challenge the said order.

9. Every accused has a constitutional right to engage a counsel / pleader for his case. The said right has been recognized under



Article 22(1) of the Constitution of India as well as Section 303 Cr.P.C.. It is also seen that that petitioner had already undergone more than 11 years of imprisonment. It is not denied that the petitioner was also released on earlier occasion and has not misused the liberty.

10. In view of the above, the present petition is allowed. The petitioner is directed to be released on parole for a period of four weeks in FIR No.152/2012, on the following conditions:

- i. The petitioner shall furnish a personal bond in the sum of ₹10,000/- with one surety of the like amount, who shall be a family member of the petitioner, to the satisfaction of the learned Trial Court.
- ii. The petitioner shall report to the SHO of the local area, once a week on every Sunday at 10:00 AM and shall not leave the National Capital Territory of Delhi during the period of parole.
- iii. The petitioner shall furnish a telephone number to the concerned Jail Superintendent on which he can be contacted, if required. After his release, he shall also inform his telephone number to the SHO of the police station concerned.
- iv. Immediately upon the expiry of period of parole, the petitioner shall surrender on 29th day of his release, before the Jail Superintendent.
- v. The petitioner shall furnish a copy of the SLP filed in the Supreme Court to the concerned Superintendent Jail at the time of surrendering.
- vi. The period of parole shall be counted from the day when the petitioner is released from jail.



11. The petition is allowed in the aforesaid terms.
12. A copy of this order be sent to the concerned Jail Superintendent.

AMIT MAHAJAN, J

FEBRUARY 6, 2024
"SK"