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

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Reserved on: 10.01.2024
Pronounced on: 12.01.2024

+ **W.P.(CRL) 693/2023**

MEHTAB

..... Petitioner

Through: Mr. Kushdeep Gaur,
Advocate.

versus

STATE (GOVT.) NCT OF DELHI

..... Respondent

Through: Mr. Amit Peswani, Adv. for
Ms. Nandita Rao, ASC (Crl.)
for State.
Inspector Naveen Kumar, PS
Samaypur Badli.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant application 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 issuance of writ of certiorari quashing Order No. F.18/82/2022/HG/251 dated 25.01.2023 passed by the State; and/or issuance of writ in the



nature of mandamus directing respondent to release the petitioner on parole for a period of eight (08) weeks.

2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 19.10.2020, the petitioner was convicted under Sections 302/34/392/397/394 and 120-B of Indian Penal Code, 1860 (‘IPC’) in case arising out of FIR bearing no. 404/2010, registered at Police Station, S.P. Badli, Delhi and was sentenced to undergo imprisonment for life in addition to payment of fine of Rs. 10,000/- and in default of payment of fine to undergo rigorous imprisonment for two years by the learned Additional Sessions Judge, Rohini Court, Delhi. His appeal against conviction i.e., CRL.A. 131/2021 was dismissed by this Court *vide* judgment dated 31.10.2022.

3. The petitioner seeks parole for a period of eight weeks for establishing social and family ties and to file Special Leave Petition before the Hon’ble Supreme Court of India.

4. Learned ASC appearing on behalf of the State draws this Court’s attention to the fact that the petitioners overall conduct in the jail is unsatisfactory and he had been given two punishment tickets dated 07.06.2019 and 09.09.2019. Therefore, the present writ petition be dismissed.

5. On the other hand, learned counsel for the petitioner states that rejection order dated 25.01.2023 by the State is contrary to the basic tenets of law. It is stated that the only reason for dismissal of the application of the petitioner for grant of parole is that his overall jail conduct was unsatisfactory and that the petitioner is involved in one



more criminal case. It is stated that the petitioner has undergone incarceration of about 12 years and that the petitioner desires to file an SLP and re-establish his social ties with society and family members on account of continuous long incarceration.

6. This Court has heard arguments, and has gone through the case file, as well as the impugned order.

7. The application filed by the petitioner for release on parole was rejected *vide* order dated 25.01.2023, by the respondent/competent authority, on the following one ground:

“With reference to your office letter No.F.2/SCJ2/AS(PAROLE)/2022/6173 dated 12.12.2022, on the subject cited above, I am to inform you that the request in respect of the 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. As per police verification report received from Addl. DCP-1, Outer North District, Delhi, the above said convict is also involved in one other case. The grant of parole to said convict is strongly opposed.
2. As per nominal roll, his overall jail conduct is report to be unsatisfactory.
3. The above said convict can file SLP from jail itself, where free legal aid facility is available to all prisoners.

The convict may be informed accordingly”.

8. Thus, the application for grant of parole filed by the petitioner has been rejected on the ground that he was involved in one another criminal case and the overall jail report is unsatisfactory.

9. While considering the present writ petition for grant of Parole, the Court has to remain conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and that as per the Nominal Roll, he has already remained in incarceration for almost 12



years and 10 days excluding remission of about 06 months and 12 days. As regards the overall jail conduct of the petitioner, it has been reported as unsatisfactory.

10. The petitioner in this case was convicted for committing offence under Sections 302/34/392/397/394 and 120-B of IPC on 19.10.2020 and was sentenced to undergo imprisonment for life in addition to payment of fine of Rs. 10,000/- and in default of payment of fine to undergo rigorous imprisonment for two years by the learned Additional Sessions Judge, Rohini Court, Delhi.

11. This Court has perused 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...”

12. This Court cannot overlook the circumstances and the family exigencies that may have arisen in the family of the petitioner. Needless to say, while dealing with an issue relating to grant of Parole to a convict, the Courts are required to balance the interests of convict as well as of the society. However, the Courts are also required to consider cases, such as present one, with sensitivity and compassion, and an opportunity may be provided to a convict to re-establish social ties. Moreover, it cannot be overlooked that an accused has right to effectively perused his legal remedies by filing SLP through the counsel of his choice which is a valuable right. Such a right of citizen cannot be withheld or the remedy denied to him on the ground that free legal aid is available in jail and SLP can be filed from the jail itself. The accused while being lodged in jail may not be able to exercise his right to engage advocate of his own choice effectively. Needless to say, filing SLP in the highest Court of the country which is the last hope for availing justice cannot be denied to an accused on the ground of his unsatisfactory conduct.

13. The address of the petitioner has been verified by the Investigating Officer (IO) and the report in this regard is on record.

14. Considering the aforesaid facts and circumstances, this Court is not inclined to withdraw the right of the petitioner that has been handed out to him, therefore, this Court is inclined to grant parole to



the petitioner for a period of four (04) weeks from the date of his release on the 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.
 - ii. 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 and shall not leave the National Capital Territory of Delhi during the period of parole.
 - iii. 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.
 - iv. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
 - v. The period of parole shall be counted from the day when the petitioner is released from jail.
15. With the above terms, the present writ petition is disposed of.
16. A copy of this order be sent by the Registry to the Jail Superintendent concerned.
17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 12, 2024/zp