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

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Reserved on: 14.03.2024
Pronounced on: 19.03.2024

+ **W.P.(CRL) 853/2024**

NARESH KUMAR @ KALU

.....Petitioner

Through: Mr. Neeraj Kumar, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amol Sinha, ASC for the
State with Mr. Kshitiz Garg,
Mr. Ashwini Kumar, Ms.
Chavi, Advocates and with SI
Satish Bhati, P.S. Okhla
Industrial Area.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant writ 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 the petitioner seeking for issuance of writ in the nature of mandamus seeking release of petitioner on parole for a period of two months.

2. The petitioner is presently confined in Central Jail No. 10,



Sector - 19, Rohini, New Delhi. By virtue of judgment dated 17.09.2011, the petitioner was convicted under Section 302/307/323/148/149 of Indian Penal Code, 1860 ('IPC') in case arising out of FIR bearing No. 869 /2006, registered at Police Station, O.I.A, Delhi and was sentenced to undergo rigorous imprisonment for life by the learned Additional Sessions Judge, Saket Courts, Delhi. His appeal against conviction i.e., CRL.A. 1490/2011 was dismissed by this Court *vide* judgment dated 19.11.2012.

3. Learned Counsel appearing on behalf of the petitioner submits that the petitioner is seeking grant of parole for a period of two months on the ground to re-establish social ties with family members and to look after his old aged ailing mother. It is stated that the petitioner had applied for grant of parole before the competent authority on 16.11.2023, however, till date the same has not been decided by them. It is further stated that this Court had granted parole to the petitioner for a period of four weeks *vide* order dated 01.03.2023 in W.P. (CRL). No. 287/2022 and the petitioner had surrendered on time and had not misused the liberty granted to him. It is further submitted that as per Rule 1213 (8) (x) of the Delhi Prison Rules 2018, if no report is received by the Superintendent of Jail within 4 weeks, then it shall be presumed that concerned police authorities have no objection to parole being granted. It is submitted that the petitioner's family comprises of his old aged mother who is suffering from multiple ailments and has one elder brother who lives with his family. It is therefore, prayed that petitioner be granted



parole for a period of two months to look after his family and old aged mother in accordance with Rule 1213 (8) (x) of the Delhi Prison Rules 2018.

4. On the other hand, learned ASC for the State vehemently opposes the present writ petition and submits that the petitioner has been awarded with six major punishments for violating Prison Rules after his surrender from parole granted to him *vide* order dated 01.03.2023. It is further submitted that the petitioner is a habitual violator of Prison Rules and thus, if released on parole he may misuse the liberty granted to him. Thus, the instant petition be dismissed.

5. This Court has heard arguments on behalf of both the parties and has gone through the material placed on record.

6. This Court has gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 which 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...”

7. This Court has perused Rule 1270 and Rule 1271 of the Delhi Jail Rules which deal with punishments for prisoners of all categories and the classification of punishments. The same are reproduced as under:

“1270. No punishment or denial of privileges and amenities, or no transfer to other prisons with penal consequences, shall be imposed on prisoners without judicial appraisal.

1271. The following punishment(s) may be awarded by the Superintendent to prisoners for committing any prison offence. These are classified into minor punishments and major punishments.

(a) Minor Punishments

- I. Formal warning which shall be personally addressed to the prisoner by the Superintendent and recorded in the punishment book.
- II. Loss of privileges given to the prisoners in detention for a maximum of one month
- III. Forfeiture of earned remission up to ten days.

(b) Major Punishments

- I. Forfeiture of remission up to a period of thirty days at any one time or with the approval of the Inspector General remove a prisoner from the remission system up to a period of six months; Provided that the Inspector General shall have power to forfeit all earned remissions, other than remissions given by the Government, or to remove a



prisoner from the remission system for the entire period of his imprisonment;

II. Stoppage of recreational facilities up to a period of one month or canteen facilities for a period of 1 month or stoppage of interviews for a period of up to three months;

III. In case of breaches and violations in conditions of release on parole or furlough, not counting the said period towards imprisonment.

IV. Segregation up to a period of three months and with the sanction of the Inspector General, up to a period of six months.

V. Monitoring under watch and security

VI. In case of any damage to Government property, recovery of cost for such damage after proper enquiry effective with judicial appraisal

VII. Inmate calling system stoppage up to 1 month

VIII. Forfeiture of recovered/ seized money”

8. This Court has gone through Rule 1210 of the Delhi Prison Rules, 2018 and it is necessary to reproduce the same in order to adjudicate the case at hand:

“1210. In order to be eligible for release on parole in terms of Rule above:

I. A convict must have served at least the period of one year in prison excluding under-trial period and any period covered by remission. However, in exceptional cases, where the prisoner has spent more than 3 years as under trial period or half of the sentence of the punishment awarded as under trial then his parole application may be considered, if he has spent at least 6 months in prison as convict.

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 prison offence in prison should have been uniformly good for last one year from the date of application.

III. During the period of release on parole or furlough, if granted earlier, the convict should not have committed any crime.

IV. The convict should not have violated any terms and conditions of the parole or furlough granted previously.



V.A minimum of six months ought to have elapsed from the date of surrender on the conclusion of the previous parole availed. In emergency, parole may be considered even if minimum period of six months has not elapsed from the date of termination of previous Parole. The emergency may include delivery of a child by the wife of the convict, death of a family member, marriage of children, terminal illness of family members and natural calamities”.

9. This Court notes that as per the nominal roll received from the concerned authorities, the present petitioner has been awarded six major punishments after he had surrendered from the parole granted to him *vide* order dated 01.03.2023 in W.P. (CRL). No. 287/2022. The punishments awarded to the petitioner as per nominal roll are reproduced as under:

- “...1.11.05.23: **PROHIBITED ARTICLES RECOVERED**
(PHONE & CANTEEN FACILITY STOPPED
FOR 15 DAYS)
- 2. 20.05.23 : **PROHIBITED ARTICLES RECOVERED**
(PHONE & CANTEEN FACILITY STOPPED
FOR 15 DAYS)
- 3. 04.06.23: **MISBEHAVED WITH STAFF (WARNED BY
SCJ)**
- 4. 03.10.23: **SCUFFLING WITH OTHER INMATE**
(15DAYS MULAKAT & CANTEEN FACILITY
STOPPED)
- 5. 03.10.23: **INMATE FOUND DRUG TEST POSITIVE(1
MONTH MULAKAT, CANTEEN & PHONE
FACILITY STOPPED)**
- 6. 04.10.23: **SCUFFLING WITH OTHER INMATE (15
DAYSMULAKAT & CANTEEN FACILITY.”**

10. This Court notes that Rule 1210 (II) mandates that a prisoner



who has been awarded major punishment should have a good conduct for last two years from the date of application of grant of parole before the concerned authorities. In the instant case, the petitioner has been awarded six major punishments as per Rule 1272 of the Delhi Prison Rules, 2018 whereby judicial appraisals to the same have also been given by the concerned Judge.

11. This Court observes that the fundamental principle behind granting parole is that it serves as a mechanism to incentivize and acknowledge the positive efforts of individuals towards rehabilitation during their incarceration. However, in the present case, the petitioner's conduct following the grant of parole is in stark contrast with the essence of this principle. Despite being granted the relief of parole *vide* order dated 01.03.2023, the petitioner after his surrender had flagrantly violated numerous jail rules resulting in issuance of six punishment tickets and subsequent judicial appraisals of the same. Such conduct not only undermines the rehabilitative purpose of incarceration but also calls into question the petitioner's commitment to reform.

12. This Court further observes that in total, the present petitioner has been awarded 15 punishment tickets as per nominal roll and the conduct of the petitioner has always been unsatisfactory and in violation of one rule or the other of Delhi Prison Rule. In light of this discussion, it is evident that the petitioner has failed to demonstrate the requisite progress towards rehabilitation, thereby rendering his request for grant of parole untenable. In view thereof, this Court finds



no ground to grant parole to the petitioner.

13. In view of the above, the present writ petition is dismissed.

14. The copy of the judgment be sent to the petitioner, who is in judicial custody through concerned Jail Superintendent, for information.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 19, 2024/at