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

% **Date of Decision: 11.01.2024**

+ **W.P.(CRL) 1190/2023**

NEERAJ BHATT

..... Petitioner

Through: Mr. Ajay Kumar (DHCLSC),
Advocate

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Yasir Rauf Ansari, ASC
for the State with Mr. Alok
Sharma, Mr. Vasu Agarwal,
Advocates with SI Sunil
Chandra, P.S. Ambedkar
Nagar, Delhi

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

1. 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 issuance of writ in the nature of mandamus directing the respondent to release the petitioner on parole for a period of three months.

2. The petitioner Neeraj Bhatt is presently confined in Central Jail No. 14, Mandoli, New Delhi. He was arrested in FIR bearing No. 60/2014 registered at Police Station Ambedkar Nagar, Delhi and *vide*



judgment dated 05.12.2019, he was convicted under Sections 363/376(2) of Indian Penal Code, 1860 read with Section 6 of POCSO Act by learned ASJ-05, Special Court (POCSO), Saket Court, New Delhi and *vide* order on sentence dated 19.12.2019, the petitioner was sentenced to undergo rigorous imprisonment for ten years alongwith fine of Rs.5,000/- for offence under Section 376(2) of IPC, and to undergo rigorous imprisonment for seven years and fine of Rs.5,000/- for offence under Section 363 of IPC. The appeal filed by the petitioner against his conviction was dismissed by this Court *vide* judgment dated 04.07.2022.

3. Learned counsel for the petitioner submits that the petitioner is suffering from varicose vein disease for past 5-6 years. It is argued that though the petitioner has been receiving treatment from the concerned jail doctors, his condition has not improved and he has been advised to undergo operation from the private hospital, as he is also suffering from Hepatitis B. Moreover, the petitioner is also having stone problem which is to be removed as early as possible. It is further submitted that the petitioner was granted parole by this Court *vide* judgment dated 05.01.2023 on the ground of filing SLP before the Hon'ble Apex Court for a period of four weeks and he had surrendered on time without misusing the liberty granted to him. It is argued that petitioner is not barred from seeking parole under rule 1211 of the Delhi Prison Rules, 2018, as discretion has been vested in the competent authority to grant parole under special circumstances, and such "special circumstances" have not been spelt out, and it is clear that the facts of each case would reveal the special



circumstances for grant of parole. It is stated that the medical reports on record clearly reflects that the petitioner requires medical intervention and therefore, it is prayed that he be released on parole.

4. Learned ASC for the State submits that conduct of the petitioner inside the jail has not been satisfactory. However, it is fairly submitted by the learned ASC that considering the medical condition of the petitioner and the period of custody undergone by him, he has no objection if this Court is inclined to grant parole to the petitioner for a few weeks.

5. This Court has heard arguments addressed on behalf of the both the parties and has perused the material on record.

6. In the present case, this Court notes that petitioner has remained in judicial custody for a period of about 9 years and 7 months, excluding remission of more than 2 months, which reflects that he has served almost the entire sentence of 10 years. The jail conduct of the petitioner of last one year has been satisfactory. The overall jail conduct of the petitioner though has been unsatisfactory due to 28 punishments awarded to him between the period 2016 to 2022 in the jail, no punishment however has been awarded to the petitioner in last about 2 years. This Court had also earlier granted parole to the petitioner for a period of four weeks on the ground of filing SLP, and the petitioner had duly surrendered before the concerned Jail authorities on the expiry of same. While granting parole to the petitioner vide judgment dated 05.01.2023, in ***Neeraj Bhatt v. State NCT of Delhi W.P.(CRL.) 3071/2022***, this Bench had considered the mandate of Rule 1211 of Delhi Prison Rules and had



observed as under:

“6. It would be useful to reproduce Rule 1211 for ready reference, as below:-

“ 1211. In the following cases, parole shall not be granted, except, if in the discretion of the competent authority special circumstances exist for grant of parole:

I. to VI. xxx xxx

VII. If the prisoner is convicted under POCSO.”

7. The bar in the said rule is not absolute since the competent authority has the discretion, even in such cases, to grant parole, provided there exist special circumstances.”

7. The special circumstances, as argued in the present case, are that the medical condition of the petitioner is such that he needs to be released on parole so that he can get himself treated in a private hospital. In this regard, this Court has gone through the medical status reports filed by the jail authorities, which reveal that petitioner has been suffering from Gallstone disorder as well as right lower limb varicose veins, and he is undergoing treatment in department of surgery at LNJP Hospital, Delhi. He is also required to undergo surgery for gallbladder. The petitioner is also a patient of Hepatitis-C, for which he has been receiving treatment from G.B. Pant Hospital, Delhi.

8. In this Court’s opinion, the aforesaid circumstances are sufficient enough to grant parole to the petitioner, by adopting a humanitarian approach, and also considering the period of incarceration undergone by the petitioner. Therefore, this Court is inclined to grant parole to the petitioner for a period of four (04) weeks on the following conditions:



- i. The 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 concerned.
 - ii. As stated in the petition, the petitioner shall reside with his family, in District Pithoragarh, Uttarakhand. The petitioner shall report to the SHO of the local area i.e. P.S. Jhulla Ghat, Pithoragarh, Uttarakhand once a week on every Sunday between 10:00 AM to 11:00 AM.
 - iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent, 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.
9. With the above terms, the present writ petition is disposed of.
10. A copy of this order be sent by the Registry to the Jail Superintendent concerned.
11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 11, 2024/ns