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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 1985/2024 & CRL.M.A. 19300/2024

DEVENDER SINGH

.....Petitioner

Through: Mr. Ishaan Phukan, Ms. A.
Sahitya Veena & Mr.
Faraz Maqbool,
Advocates.

versus

THE STATE (GOVT OF NCT) OF DELHI.....Respondent

Through: Mr. Yasir Rauf Ansari,
ASC-CRL for the State
alongwith Mr Alok
Sharma, Mr. Vasu
Agarwal & Ms. Pragya
Sharma, Advocates.
SI Anil (P.S. Seemapuri).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

09.12.2024

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1. The order dated 18.10.2024 passed by the Respondent authorities indicates that the application filed by the petitioner seeking parole was rejected on the ground that the petitioner had violated the terms and conditions of the parole granted previously.

2. It is pointed out that the petitioner was released on parole on an earlier occasion on 12.10.2018 for a period of one month. He, however, jumped the parole and was taken in custody on 13.09.2022. Clearly, the same is a serious violation of the terms and conditions of release of convict on parole.

3. The object of grant of parole or furlough is to afford relief to the convicts in the form of temporary release from prison as a progressive measure of correctional services. It is aimed as an opportunity for the prisoner to maintain familial relations and to

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act as a motivation for them to maintain good conduct while in prison. The Hon'ble Apex Court in ***Asfaq v. State of Rajasthan and Others : (2017) 15 SCC 55*** while summarising the difference between parole and furlough, and the grounds to grant the same observed as under:

“11. There is a subtle distinction between parole and furlough. A parole can be defined as conditional release of prisoners i.e. an early release of a prisoner, conditional on good behaviour and regular reporting to the authorities for a set period of time. It can also be defined as a form of conditional pardon by which the convict is released before the expiration of his term. Thus, the parole is granted for good behaviour on the condition that parolee regularly reports to a supervising officer for a specified period. Such a release of the prisoner on parole can also be temporarily on some basic grounds. In that eventuality, it is to be treated as mere suspension of the sentence for time being, keeping the quantum of sentence intact. Release on parole is designed to afford some relief to the prisoners in certain specified exigencies. Such paroles are normally granted in certain situations some of which may be as follows:

- (i) a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill; or*
- (ii) the marriage of the prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated; or*
- (iii) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation of his land or his father's undivided land actually in possession of the prisoner; or*
- (iv) it is desirable to do so for any other sufficient cause;*
- (v) parole can be granted only after a portion of sentence is already served;*
- (vi) if conditions of parole are not abided by the parolee he may be returned to serve his sentence in prison, such conditions may be such as those of committing a new offence; and*
- (vii) parole may also be granted on the basis of aspects related to health of convict himself.*

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14. Furlough, on the other hand, is a brief release from the prison. It is conditional and is given in case of long-term imprisonment. The period of sentence spent on furlough by the prisoners need not be undergone by him as is done in the case of parole. Furlough is granted as a good conduct remission.

15. A convict, literally speaking, must remain in jail for the period of sentence or for rest of his life in case he is a life convict. It is in this context that his release from jail for a



short period has to be considered as an opportunity afforded to him not only to solve his personal and family problems but also to maintain his links with society. Convicts too must breathe fresh air for at least some time provided they maintain good conduct consistently during incarceration and show a tendency to reform themselves and become good citizens. Thus, redemption and rehabilitation of such prisoners for good of societies must receive due weightage while they are undergoing sentence of imprisonment."

(emphasis supplied)

4. The release on parole, is not an indefeasible right. It is a temporary release, and is conditional upon the prisoner maintaining good behaviour when in prison, and that the parolee regularly reports to the authorities for a set period of time. The Courts have repeatedly held that the convicts too must breathe fresh air for some time, provided that they maintain good conduct during incarceration and show a tendency to reform themselves.

5. In the present case, the petitioner was granted parole, on an earlier occasion, for a period of one month with effect from 12.10.2018. However, the petitioner jumped the parole and overstayed for a period of almost 4 years, and was taken into custody only on 13.09.2022. The said violation cannot be taken lightly.

6. In view of the above, I am of the opinion that, the petitioner is not entitled for release on parole.

7. The petition is therefore dismissed.

AMIT MAHAJAN, J

DECEMBER 9, 2024/ 'Aman'