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

+ W.P.(CRL) 2850/2023 & CRL.M.A. 28499/2023 (Early hearing),
28500/2023 (objection to status report/medical status)

BASHIR AHMED PONNU

..... Petitioner

Through: Mr. Sarthak Maggon & Ms. Anam
Sahar, Advocates (through VC).

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Nandita Rao, ASC (criminal) for
the State with Mr. Amit Peswani,
Advocate.
Insp. Somil Sharma, P.S. Special
Cell.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **09.04.2024**

CRL.M.A. 33546/2023 (amendment of writ petition)

1. The present application under Section 482 of the Cr.P.C. seeks the following prayers:

“a) Allow the amendment of the captioned writ petition and take on record the fresh writ petition filed vide diary no. E-2158441/2023;
b) Pass any other or further orders/directions as may be deemed fit by this Hon'ble Court in bona fide interest and furtherance of justice.”

2. Response has been filed on behalf of the State.

3. In view of the averments made in the application and in the interest of justice, the same is allowed and disposed of.

4. Amended petition is taken on record.

W.P.(CRL) 2850/2023



5. *Vide* the amended petition, the petitioner seeks the following prayers:

- “a) Issue a Writ in the nature of mandamus directing the Respondents to release the Petitioner on parole for a period of eight weeks for making appropriate arrangements and attending the marriage ceremony of his daughter which was previously scheduled to be held on 08.10.2023, medical treatment and for maintenance of social ties, and/or
- b) Quash order dated 19.10.2023 passed by the Competent Authority and grant parole to the Petitioner for attending the marriage ceremony of his daughter, medical treatment and for maintenance of social ties;
- c) Pass any other or further orders/directions as may be deemed fit by this Hon'ble Court in bona fide interest and furtherance of justice.”

6. The present petitioner was facing trial in case FIR No. 07/2007 at P.S. Special Cell. The learned Trial Court in the said case has acquitted the present petitioner. Subsequently, the criminal appeal on behalf of the State bearing No. 1065/2014 was filed, which was allowed by the learned Division Bench of this Court. The petitioner has been sentenced to undergo imprisonment for life for the offences punishable under Sections 120B/121/121A/122/123 of the IPC read with Sections 4/5 Explosive Substance Act, 1908 and Sections 17/18/20/21/23 of the Unlawful Activities and Prevention Act, 1967 and Sections 186/353/307/489B/489C/ of the IPC and Section 14 of the Foreigners Act, 1946. The pre-amended petition had been filed for grant of parole for attending the marriage of his daughter on 08.10.2023.

7. *Vide* order dated 05.10.2023, the petitioner was granted custody parole to attend his daughter's marriage which was scheduled for 07.10.2023 and 08.10.2023. It is a matter of record that the petitioner could not avail the



custody parole on account of the fact that he was unable to bear the cost and therefore, could not be sent on custody parole to attend his daughter's marriage on the said dates.

8. By way of the amended petition, it is pointed out that the marriage of the daughter of the petitioner is now fixed for 18.04.2024 and 19.04.2024 at the residence of the petitioner, i.e., Maharajpura, Sopore, Baramula, Jammu and Kashmir, 193201 which stands verified.

9. On the previous occasion as well, the petitioner's request for parole to attend his daughter's marriage was not allowed by the competent authority in view of the Delhi Prison Rules, 2018. It was also stated that the report from the hometown District Probationary Officer, which is mandatory as per Rules 1211 and 1215(IV) of the Delhi Prisons Rules, 2018 with respect to the present petitioner is still awaited.

10. The petition for parole was also opposed on the ground that during the hearing of appeal against acquittal of the present petitioner, the latter was brought by way of coercive measures taken against him and therefore, the parole was opposed on the ground that the present petitioner is a flight risk.

11. Be that as it may, in the facts and circumstances of the case, this Court is of the considered opinion that the petitioner can be granted custody parole to attend the marriage of his daughter scheduled for 18.04.2024 and 19.04.2024.

12. In view of the above, the Jail Superintendent is directed to take the petitioner in custody parole for attending the marriage of his daughter on 18.04.2024 and 19.04.2024 at Maharajpura, Sopore, Baramula, Jammu and Kashmir, 193201. The arrangements for the travel shall be organized by the concerned Jail Superintendent. The Officer in-charge of PS Sopore will



provide necessary assistance/security to the personnels/team accompanying the petitioner. It is directed that the petitioner will restrict his movement to the venue where the marriage of his daughter is scheduled which, as per the petitioner is at his residence at Maharajpura, Sopore. It is also directed that the petitioner shall not make any public statements. The schedule of travel of the petitioner to the aforesaid venue will be determined by the Jail Superintendent. It will, however, be ensured that the petitioner be taken to the venue one day prior to the marriage, i.e., 17.04.2024 and be brought back after 19.04.2024.

13. With the aforesaid direction, the petition stands disposed of.
14. Pending application(s), if any, also stand disposed of.
15. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance through special messenger.
16. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

APRIL 09, 2024/bsr

Click here to check corrigendum, if any