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

+ **W.P.(CRL) 3040/2023**

AKASH

.....Petitioner

Through: Mr. Ayush Sharma, Mr. Ashish
Sharma, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Nandita Rao, ASC for the State
with Mr. Amit Peswani, Advocate
with Inspector Arun Dagar, PS
Bhalswa Dairy.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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15.07.2024

**CRL.M.A. 20427/2024 (under Section 482 CrPC filed by the petitioner
for early hearing)**

1. The application under Section 482 CrPC has been filed on behalf of the petitioner seeking for early hearing.
2. Learned counsel appearing on behalf of the respondent, has no objection if the present Petition is preponed. The Petition is preponed and is taken up on merits, with the consent of the parties.
3. The application is disposed of accordingly.

**W.P.(CRL) 3040/2023 (under Article 226 of the Constitution of India
read with Section 482 CrPC, filed by the petitioner against the Order
dated 05.10.2023)**



4. The Petition under Article 226 of the Constitution of India read with Section 482 CrPC has been filed on behalf of the petitioner, for setting-aside the Order dated 05.10.2023 rejecting his Parole Application as being bad in law and without any cogent reasons.

5. It is submitted that the conviction of the petitioner under Sections 452/34/302/34 of IPC, has been upheld by this Court, by dismissing the CrI.A. No. 1096/2018.

6. It is submitted that Rule 1208(viii) of Delhi Prison Rules, 2018 provides that the petitioner is entitled to Parole if he intends to pursue the filing of a Special Leave Petition before the Hon'ble Supreme Court of India. In the present Case, the petitioner is eligible under Rule 1210 for grant of parole as:

a. The Petitioner has served more than 6 years in prison excluding under-trial period and any period covered by remission;

b. The conduct of the Petitioner is uniformly good for last two years from the date of application;

c. The Petitioner has not violated any terms and conditions of the interim suspension of sentence granted previously by Delhi High Court;

d. That, the last interim suspension of sentence was in April 2022 i.e. more than 6 months has elapsed from the last interim suspension of sentence.

e. That, the Petitioner has not committed any offence during last 2 interim suspension of sentence.

7. It is, therefore, submitted that the rejection of the Parole application dated 21.07.2023 by the Jail Authorities vide Order dated 05.10.2023, is bad



in law and be set-aside.

8. **Learned counsel appearing on behalf of the petitioner** submits that Rule 1208 of Jail Manual specifically provides for grant of Parole to challenge the Judgment by way of the SLP, without considering the facts and the necessity of being on Parole, to enable the petitioner to file an SLP. The Parole Application has been dismissed vide Order dated 05.10.2023, without giving any cogent reasons.

9. Learned counsel for the petitioner has relied upon the Case of '*Neeraj Bhatt vs. The State (Govt. of NCT) of Delhi*', wherein in the similar situation, the Parole had been allowed by this Court.

10. The petitioner has relied upon '*Somesh Gupta vs. State of the NCT of Delhi*', 2010 SCC OnLine Del 76; '*Ramesh Kumar vs State of NCT of Delhi*', 2009 SCC OnLine Del 3757; '*Sharda Jain vs. State*', 2010 SCC OnLine Del 633; '*Ramesh Kumar vs. State*', 2009 SCC OnLine Del 3757 and '*Vimal Kumar Bahl vs. State (NCT of Delhi)*', (2010) 93 AIC 597 (Del).

11. **Learned counsel on behalf of the respondent**, has contested the Petition, on the ground that the Nominal Role of the petitioner not only reflects his unsatisfactory conduct in the Jail for last two years, but he has also been imposed with various major punishment in 2023. All this has been duly considered while rejecting the Parole Application. Furthermore, even under Rule 1208, the permission to grant parole for filing an SLP, is subject to Rule 1210.

12. The respondent/State has submitted that the petitioner is a habitual Jail rules violator and there are multiple punishments recorded against him, two have been major punishments in 2023 since he had moved the parole Application. Even otherwise, his conduct in the jail is not satisfactory as is



also reflected in the Nominal roll.

13. The present Petition is without merit and is liable to be rejected.

14. **Submissions heard.**

15. In the present Case, the petitioner has relied on Rule 1208, to claim that he is entitled to parole for the purpose of filing an Appeal before the Apex Court. However, the Rule 1208 itself provides that the Parole may be granted for the purpose of filing the Appeal, provided the conditions specified in Rule 1210, are satisfied.

16. Rule 1210 requires that the petitioner should not have violated any terms and conditions of the interim suspension of sentence and that his conduct was uniformly good for the last two years from the date of Application. Further, he should have served more than six years in person excluding under trial period and any period covered by remission.

17. The Judgment relied upon by the petitioner, are not applicable in the present Case for the simple reason that in those cases, Parole had been sought only for filing of SLP before the Apex Court and none of the surroundings circumstances as prevailing in the present Case, were existing. Therefore, the denial of Parole was set aside and the Court directed grant of parole for the purpose of filing of SLP.

18. In the present Case, the pre-condition for grant of Parole under Rule 1208 is to satisfy the conditions of Rule 1210, i.e. he should not have unsatisfactory jail conduct and that he should not have been inflicted with Major Punishments. None of these conditions have been satisfied and once the pre-requisites for grant of parole under 1208, have not been satisfied, the petitioner is not entitled to the grant of parole, as sought by him. The impugned order dated 05.10.2023 declining grant of parole, does not suffer



from any infirmity.

19. There is no merit in the present application, which is hereby dismissed.

20. The next date of hearing i.e. 08.10.2024 stands cancelled.

NEENA BANSAL KRISHNA, J

JULY 15, 2024/RS