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

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Reserved on: 03.01.2024
Pronounced on: 08.01.2024

+ **W.P.(CRL) 3149/2023**

KAUSHAL

..... Petitioner

Through: Mr. Vinayak Bhandari, Ms.
Teesta Mishra, Ms. Jaisal
Singh, Advocates.

versus

THE STATE (GOVT. OF NCT) DELHI

..... Respondent

Through: Ms. Priyam Agarwal & Mr.
Abhinav Kumar Arya,
Advocates for Mr. Sanjay Lao,
Standing Counsel (Criminal)
for the State.
Inspector Nanag Ram Meena,
P.S. Nangloi.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of instant petition filed under Article 226 of Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 ('Cr.P.C. '), the petitioner seeks issuance of writ in the nature of mandamus directing respondent to release petitioner on parole for a period of three months to maintain social ties and family relations and to curb inner stress.



2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. The petitioner was convicted under Section 302/201 of Indian Penal Code, 1860 in case arising out of FIR bearing no. 968/2005, registered at Police Station Nangloi, New Delhi and *vide* order on sentence dated 18.08.2011, he was sentenced to undergo rigorous imprisonment for life alongwith fine of Rs.10,000/- for offence under Section 302 of IPC, and to undergo rigorous imprisonment for four years alongwith fine of Rs.2000/- for offence under Section 201 of IPC. His appeal against conviction i.e. Crl. Appeal No. 11/2012 was dismissed by this Court *vide* judgment dated 13.08.2012.

3. The petitioner seeks parole for a period of three months for establishing social and family ties and to curb inner stress.

4. Learned counsels appearing on behalf of the respondent draws this Court's attention to the fact that the petitioner was released on furlough from 28.02.2020 to 14.03.2020, however, he did not surrender in time and was further arrested on 04.12.2022. It is further stated that in case he is again released on parole for the purpose of maintaining social ties, he may escape from the law. Therefore, it is prayed that present petition be dismissed.

5. Learned counsel for the petitioner, on the other hand, states that petitioner was not aware regarding the date of surrender when he was granted furlough on 28.02.2020, and it was not deliberate on his part to escape law as he was under an impression, as advised by his counsel, that he was not required to surrender due to Covid-19 pandemic. It is also argued that the petitioner has been in judicial



custody for the last 15 years, and has been released on parole, on multiple occasions, i.e. 14.12.2012 to 15.01.2013, 06.02.2014 to 07.03.2014, 16.03.2015 to 17.04.2015, 18.03.2016 to 16.04.2016, 15.05.2017 to 13.06.2017, 28.02.2018 to 29.03.2018 and 13.03.2019 to 28.03.2019, and he had surrendered in time on each occasion. It is also stated only occasion where his conduct has been reported to be unsatisfactory was on account of quarrelling with other inmate, in the year 2012. In these facts and circumstances, it is prayed that the petitioner be released on parole.

6. This Court has heard arguments addressed by both the parties, and has gone through the material on record.

7. The application filed by the petitioner, seeking grant of parole, was rejected by the competent authorities, mainly on the ground that when he was released on furlough in the year 2020, he had not surrendered and was later arrested in the year 2022. As per impugned order, this act of the petitioner makes him dis-entitled for grant of parole under Rule 1210 sub-rule (II) and (IV) and Rule 1211.

8. This Court has gone through the Nominal Roll of petitioner, which reveals that he has remained in judicial custody for a period of about 15 years and 02 months, excluding remission of about 02 years and 08 months. Further, the petitioner has been working as ward *sahayak* in Central Jail No. 01, Tihar. As on date, the jail conduct of the petitioner, of last one year, would be satisfactory as the last punishment awarded to him was on 05.12.2022. It is also reflected from the nominal roll that the petitioner has been granted parole on seven occasions and furlough on eleven occasions, between the



period 2012-2020. Except the last time when the petitioner was granted furlough, he had always surrendered in time i.e. on expiry of period of parole/furlough. As regards the overall jail conduct of the petitioner, it has been reported as unsatisfactory due to two punishments awarded to the petitioner i.e. one in the year 2012, and another in the year 2022 i.e. punishment for non-surrender and re-arrest. However, this Court has also taken note of the arguments addressed by learned counsel for petitioner in this regard, that immediately after the petitioner had been released on furlough in the year 2020, the Covid-19 pandemic had begun and the petitioner had been told by his counsel that he need not surrender as the convicts had been granted interim bails/furlough/emergency parole during the Covid-19 period. Be that as it may, in this Court's opinion, the petitioner has already been awarded a major punishment dated 05.12.2022 for his misconduct and more than one year has elapsed since then, and he has not been released on parole/furlough since the said incident.

9. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 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..."

10. Further, Rule 1208 provides 'maintaining family and social ties' as one of the grounds for seeking grant of parole.

11. Thus, considering the aforesaid facts and circumstances, and the fact that petitioner has remained in judicial custody for more than 15 years, this Court is inclined to grant parole for a period of four (04) weeks to the petitioner for re-establishing social and family ties. However, considering the arguments addressed on behalf of the State, this Court deems it appropriate to impose the following terms and conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount who shall be a family member, to the satisfaction of the Jail Superintendent.



- ii. The petitioner shall report to the SHO of the local area 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 as well as SHO of local police station, 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. The Jail Superintendent will also ensure that the address of the petitioner and the surety is verified before accepting the bond. The petitioner is stated to be a permanent resident of Bihar, therefore, he will give an undertaking regarding the address where he will be staying during the period of parole.
 - v. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
 - vi. The period of parole shall be counted from the day when the petitioner is released from jail.
12. Accordingly, the present petition stands disposed of in above terms.
13. A copy of this order be sent by the Registry to the concerned Jail Superintendent for information.
14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 8, 2024/at