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

Reserved on: 22.05.2024
Pronounced on: 30.05.2024

+ **W.P. (CRL.) 7/2024**

PARVEEN

..... Petitioner

Through: Mr. Satyam Thareja, Advocate
 (DHCLSC).

versus

STATE (GNCT) OF DELHI

.....Respondents

Through: Mr. Anand V. Khatri, ASC for
 the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of petitioner seeking quashing of order dated 11.08.2023 passed by respondent/competent authority and for grant of parole for a period of three months.

2. Brief facts of the present case are that the petitioner is presently confined in Central Jail No. 2, Tihar, New Delhi and is serving sentence of rigorous imprisonment for life, awarded by the learned Trial Court *vide* order dated 15.12.20218, in case arising out



of FIR bearing no. 87/2011, registered at Police Station Vasant Kunj (South), Delhi for the offences punishable under Sections 366/376(2)(g)/34 of the Indian Penal Code, 1860 ('IPC'). On 03.11.2022, the appeal preferred by the petitioner against his conviction i.e. CRL.A. 562/2019 was dismissed by this Court.

3. Learned counsel for the petitioner states that the petitioner had filed application for grant of parole on grounds of engaging a counsel for the purpose of filing Special Leave Petition ('SLP') before the Hon'ble Apex Court and for establishing social ties, which has been rejected by the competent authority mechanically and on erroneous grounds. It is argued that filing of SLP is a crucial right of a convict and the competent authorities ought not to have denied parole to the petitioner. It is further submitted that petitioner even otherwise fulfills all the conditions as required by the Delhi Prison Rules, 2018 and he is fully eligible for grant of parole. Therefore, it is prayed that petitioner be granted parole.

4. On the other hand, learned ASC for the State argues that the application of the petitioner for grant of parole was rejected in light of Rule 1210 sub rule (II) and Rule 1212 Note (2) of Delhi Prison Rules 2018 which is in accordance with law and that the same has been passed by the respondent with due application of mind. It is submitted that petitioner is also facing trial in case FIR bearing no. 320/2018, registered at P.S. Badli, Delhi for the offences punishable under Sections 323/377/34 of IPC. It is further stated that overall jail conduct of the petitioner has been unsatisfactory and therefore, the present petition be dismissed.



5. This Court has heard arguments addressed by learned counsel for petitioner as well as learned ASC for the State, and has gone through the case file and the nominal roll.

6. In the present case, the petitioner's application for grant of parole was dismissed by the competent authority *vide* order dated 11.08.2023, which reads as under:

“...1. The convict is not entitled for parole in view of Rule 1210 sub rule (II) and Rule 1212 Note (2) of Delhi Prison Rules 2018, which states that:-

Rule 1210 sub rule (II):- "The conduct of the Prisoner who has been awarded major punishment for any prison offence should have been uniformly good for last two years from the date of application and the conduct of Prisoner who has been awarded minor punishment or no punishment for any prison offence in prison should have been uniformly good for last one year from the date of application". In this case, the punishment dated 06.08.2022 was awarded to the above said convict and he is not eligible for parole as per Rule 1271 of Delhi Prison Rules, 2018.

2. Further, as per nominal roll, the overall jail conduct and last one year jail conduct of said convict is reported to be unsatisfactory. The Superintendent Jail has also not recommended grant of parole to the above said convict. The Police Authority has stated that the above said convict is a habitual offender and he can commit any other offence. Further, one other case is also pending against the said convict...”

7. Thus, the application for parole filed by the petitioner has been dismissed primarily on the grounds that *firstly*, the petitioner was awarded major punishment in August 2022 and thus, his last year conduct was not satisfactory; *secondly*, that his overall jail conduct is unsatisfactory; and *thirdly*, that he is a habitual offender.

8. This Court has gone through the nominal roll placed on record,



which reveals that the present petitioner has been in judicial custody for about 08 years and 3 months. Further, he has never been released on either parole or furlough till date.

9. As regards the other cases registered against the petitioner, he has already served his entire sentence in the case pertaining to FIR No. 419/2013, P.S. Sampla, Rohtak, Haryana. Further, he has already been granted bail and is facing trial in the case arising out of FIR No. 320/2028, P.S. Samaypur Badli, Delhi.

10. This Court also notes that the petitioner was awarded last punishment on 06.08.2022, however, since then, his conduct inside the jail has been satisfactory and no other punishment has been awarded to him. Therefore, he has maintained uniformly good conduct for the last almost two years.

11. It is also crucial to consider the fact that the petitioner herein is seeking parole for the purpose of filing SLP before the Hon'ble Apex Court, since he wants to exercise his right to challenge his conviction in the present case before the highest court of the country. In decision titled *Vinod Kumar v. State W.P. (CRL) 3081/2023*, this Court has held as under:

“13. Courts have consistently emphasized that the right of a convict to file a Special Leave Petition challenging the dismissal of their criminal appeal by a High Court is crucial right. This right cannot be denied based on the availability of free legal aid in jail and the possibility of filing the SLP from the jail premises. Given that the petitioner's sole recourse for assailing his conviction now rests with the Hon'ble Apex Court, it is important to afford him the opportunity to pursue his legal remedy by filing the SLP through his chosen counsel.”



12. Therefore, considering the overall facts and circumstances of the case, and in view of reasons recorded hereinabove, this Court is inclined to grant parole to the petitioner for a period of four (04) weeks on following terms and conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs.10,000/- with one surety of the like amount, who shall be his 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 petitioner shall ordinarily reside at the address mentioned in the petition and memo of parties.
- 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.
- vi. The petitioner shall furnish a copy of SLP, filed before the Hon'ble Apex Court, to the concerned Jail Superintendent after surrendering on expiry of period of



parole.

13. In above terms, the present petition stands disposed of.
14. A copy of this judgment be forwarded to the concerned Jail Superintendent.
15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 30, 2024/zp