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

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Reserved on : 01.02.2024

Pronounced on: 05.02.2024

+ **W.P.(CRL) 739/2023**

PRAVEEN@NAVEEN@VICKY

.....Petitioner

Through: Mr. Ajay Kumar, Advocate
(through VC)

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Jasraj Singh Chhabra, Mr.
Amit Peswani, Advocates for
Ms. Nandita Rao, ASC for the
State with SI Sanjeet, P.S.
Nihal Vihar

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C. ') has been filed on behalf of petitioner seeking setting aside of impugned order dated 01.03.2023 bearing No. F/18/05/2023/HG/605 passed by the respondent; and for issuance of writ in the nature of mandamus seeking release of petitioner on parole for a period of eight (08) weeks.



2. The petitioner is presently confined in Central Jail No. 10, Sector-19, Rohini, New Delhi. By virtue of judgment dated 31.07.2019, the petitioner was convicted under Section 302/34 of Indian Penal Code, 1860('IPC') in case arising out of FIR bearing no. 211/2010, registered at Police Station, Nihal Vihar, Delhi and was sentenced to undergo rigorous imprisonment for life by the learned Trial Court His appeal against conviction i.e., CRL.A. 1448/2019 was dismissed by this Court *vide* judgment dated 14.11.2022.

3. Learned counsel appearing on behalf of petitioner submits that the petitioner is seeking grant of parole for a period of eight weeks for filing SLP before the Hon'ble Supreme Court of India against the judgment passed by this Hon'ble Court dismissing petitioner's Criminal Appeal *vide* order dated 14.11.2022. It is further submitted that the application of grant of parole to the petitioner was rejected by the respondents *vide* order date 01.03.2023 on the ground that the conduct of the petitioner is unsatisfactory. It is contended that the said order of rejection is contrary to the fundamental principles of law and is liable to be set aside. Therefore, the petitioner be granted parole for a period of eight weeks as prayed for.

4. On the other hand, learned ASC for the State vehemently opposes the present writ petition and submits that the order of rejection dated 01.03.2023 was passed by the concerned authorities keeping in mind the past conduct of the petitioner and that he is not entitled to parole in view of Rule 1210(II) of the Delhi Prison Rules, 2018 as he has been awarded major punishments in terms of Rule 1272 of the Delhi Prison Rules, 2018. It is further stated that during



the pendency of the present writ petition, before this Court the petitioner was awarded two punishment tickets for the violation of Delhi Prison Rules, 2018. In these circumstances, the present writ petition for grant of parole be dismissed.

5. This Court has heard arguments on behalf of both the parties and has gone through the material placed on record.

6. This Court has perused rejection order dated 01.03.2023 passed by the respondent and the same is reproduced as under:

“With reference to your office letter F. No. 10/SCJ-10/Rohini/AS(CT)//2023 dated 17.01.2023, on the subject cited above, I am to inform you that the request in respect of the above said convict for grant of parole has been considered and rejected by the Hon'ble Lt. Governor of Delhi in view of the followings: -

1. The convict is not entitled for parole in view of Rule 1210 sub rule (II) 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, as per punishment dated 28.07.2022 awarded to the above said convict and Rule 1271 of Delhi Prison Rules 2018, the above said convict is not entitled for parole.

2. The Superintendent, Central Jail No.10, Rohini, Delhi, has not recommended grant of parole to the above said convict.

3. Further, as per nominal roll, the last one-year jail conduct and overall jail conduct of the above said convict is reported to be unsatisfactory. Two other cases are also pending against the above said convict.

The convict may be informed accordingly”.



7. This Court has gone through Punishment Ticket No. 167 dated 26.02.2023 filed by the State, issued to the petitioner during the pendency of the present writ petition. The contents of Punishment Ticket No. 167 are reproduced as under:

“DESCRIPTION: It was reported by Si. Sushil, Warder that (1) CTP had abused and misbehaved with Sh. Suraj Ahlawat (AS) at D.S office (Deodhi). Therefore, the inmate was produced before on duty senior officers.

After reviewing the CCTV footage & during the inquiry it was revealed that aforementioned inmate was called by Sh. Suraj Ahlawat (AS) in pursuance to the enquiry of the incidence happened in the morning of (3) CT namely "Pritam, Manish & Shamshad" Further, he was called on the pretext that "Pritam told that aforementioned CTP is a rival and cannot get locked up in Barrack No.102 of Ward No.04. Upon enquiry by CTP "Parveen s/o Digpal" he became aggressive and started abusing Sh. Suraj Ahlawat (AS). However, Sh. Suraj Ahlawat (AS) counselled him to abide by the standards of behaviour and asked him to cooperate. Therefore, aforementioned CT didn't stop and started abusing Moreover, when Sh. Suraj Ahlawat (AS) tried to calm him down, he suddenly became more aggressive Either CT was then brought out from the D.S Office. However, the CTP was told to go back to his respective ward and barrack still the CT was continuously abusing Sh. Suraj Ahlawat (AS).

Therefore, he was sent back by Sh. Pardeep Rana (HW) & Sh. Sushil (W) VIOLATION DPR: The above act on the part of CT by fighting / beating with fellow inmates, attacking assaulting and causing injuries to others, refusing omitting to abide by standards of behavior, rules and regulations and lawful instructions and orders created problem in the smooth functioning of fall is a gross misconduct of Delhi Prison Rule 2018”.

8. This Court has also perused Punishment Ticket No. 679 dated 28.07.2022, the contents of which are reproduced as under:



“DESCRIPTION: It is reported today by Sh. Manohar Lal Meena, Head Warder that there is fight in between inmates in Barrack No.102 of Ward No.04. Both the inmates were then produced before on duty senior officers. After reviewing the CCTV & inquired the inmates, it is found that first they both argued with each other & then argument turned into fight. CCTV of the incidence is preserved.

VIOLATION DR: The above act on the part of UTP by beating and fighting with fellow inmates, breaking law and order and prison discipline and attacking, assaulting and causing injuries to others; created problem in the smooth functioning of jail is a gross misconduct and violation of Delhi Prison Rule 2018 Sub rule (V) & (XIII).

Therefore, the above mentioned (02) Two Inmates may be punished accordingly as per Delhi Prison Rule 2018

9. This Court has further gone through Rule 1210 of the Delhi Prison Rules, 2018, and it is necessary to reproduce the same in order to adjudicate the case at hand, which read as under:

“1210. In order to be eligible for release on parole in terms of Rule above:

I. A convict must have served at least the period of one year in prison excluding under-trial period and any period covered by remission. However, in exceptional cases, where the prisoner has spent more than 3 years as under trial period or half of the sentence of the punishment awarded as under trial then his parole application may be considered, if he has spent at least 6 months in prison as convict.

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.

III. During the period of release on parole or furlough, if granted earlier, the convict should not have committed any crime.

IV. The convict should not have violated any terms and conditions of the parole or furlough granted previously.



V. A minimum of six months ought to have elapsed from the date of surrender on the conclusion of the previous parole availed. In emergency, parole may be considered even if minimum period of six months has not elapsed from the date of termination of previous Parole. The emergency may include delivery of a child by the wife of the convict, death of a family member, marriage of children, terminal illness of family members and natural calamities”.

10. This Court notes that Rule 1210 sub rule (II) mandates that a prisoner who has been awarded major punishment should have good conduct for last two years from the date of application of grant of parole before the concerned authorities. In the instant case, the petitioner has been awarded two major punishments as per Rule 1272 of the Delhi Prison Rules, 2018. On 28.07.2022, the petitioner had received a punishment ticket as he had beaten a fellow inmate causing serious injuries to the said inmate. The said punishment ticket was given judicial appraisal, awarding punishment for stoppage of *Mulakaat* facility for three weeks.

11. Thereafter, on 26.02.2023, the present petitioner was also involved in another fight with a fellow inmate which resulted in multiple injuries to the said inmate. The said punishment ticket was given judicial appraisal *vide* order dated 22.08.2023 whereby the petitioner was awarded with stoppage of *Mulakaat* and canteen facility for four weeks. The said punishments had been awarded to the petitioner during the pendency of present writ petition.

12. Prisons, which are called correctional institutions, are designed to facilitate rehabilitation of the convicts and at the same time, to ensure deterrence while ensuring public safety. Every Prison also has



its own rules. Within this framework, if a convict indulges in criminal behaviour within the confines of a prison, the same will have to be dealt with appropriately.

13. Parole, which is a conditional release from the jail, is granted by the competent authority, and the same is contingent upon several factors including the behaviour of prisoner within the jail premises, and his demonstration of readiness for reintegration into society. Criminal acts committed within the jail premises goes against the very purpose of rehabilitation and correcting the prisoners/convicts. While evaluating an application filed by a convict seeking parole or furlough, the authorities examine the inmate's conduct both within and outside the prison. Criminal activity within the premises of jail may be regarded as a significant departure from the rehabilitative process and may consequently weigh against an inmate's parole eligibility.

14. Considering the overall facts and circumstances, this Court notes that the present petitioner has been awarded with two major punishments during the pendency of the present writ petition which is in contravention with Rule 1210 (II) of the Delhi Jail Rules, 2018 and therefore, this Court finds no ground to grant parole to the petitioner.

15. However, since the petitioner wishes to file SLP before the Hon'ble Apex Court to challenge his conviction in the present case, the concerned Jail Superintendent is directed to ensure that the petitioner is provided with necessary legal aid facilities in the jail so as to enable him to prefer an SLP before the Hon'ble Apex Court

16. Accordingly, the present petition is dismissed.



17. Copy of this order be forwarded to the concerned Jail Superintendent.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBURARY 05, 2024/ns