



2025:DHC:438



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

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Date of Decision: 27.01.2025+ **W.P.(CRL) 130/2025**

IRFAN BADSHAH

.....Petitioner

Through: Mr. Sanjeev Kr. Baliyan,
Advocate (DHCLSC) and Mr.
Yash Yadav, Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Rahul Tyagi, ASC for the
State.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

1. The instant petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the petitioner, seeking issuance of a writ in the nature of certiorari for quashing of the rejection order no. F.18/261/2015/HG/2993 dated 02.12.2024 and for the issuance of a writ in the nature of mandamus directing the respondent to release the petitioner on parole for a period of two months.



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2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 21.04.2014, the petitioner was convicted under Section 302/232/34 of Indian Penal Code, 1860 (hereafter '*IPC*') in case arising out of FIR bearing no. 161/2008, registered at Police Station Amar Colony, Delhi and was sentenced to undergo rigorous imprisonment for life by the learned Trial Court. His appeal against the conviction i.e., CRL.A. 1365/2014 was dismissed by this Court *vide* judgment dated 24.03.2015.

3. The learned counsel appearing for the petitioner states that the impugned order of rejection, passed on 02.12.2024, was without appreciation of certain principles of law and the concerned authority failed to appreciate that the petitioner herein has been released on parole and furlough on multiple occasions i.e. about 13 times and had never misused the liberty so granted. It is also stated that the FIR registered against him under Sections 25/54/59 of Arms Act, during the period when he was released on emergency parole, has resulted into filing of a chargesheet and only the I.O. remains to be examined in the said case. It is also stated that the petitioner herein has been working as a Ward Safai Sahayak and taking into account the remission earned by him, he has served more than 17 years in the prison. It is, therefore, prayed that the petitioner be released on parole for a period of two months.

4. The learned ASC for the State, on the other hand, submits that since an FIR under Sections 25/54/59 of Arms Act was registered against the petitioner while he was released on emergency parole, he is not entitled to grant of parole, since two years from the



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commission of the said offence during the subject period will expire only on 08.03.2025 and thereafter only, will be eligible for grant of parole.

5. This Court has heard arguments addressed on behalf of both the parties and has gone through the material available on record, and has also gone through the nominal roll.

6. The rejection order no. F.18/261/2015/HG/2993 dated 02.12.2024 is set out below:

“...1. The convict is not entitled for parole in view of Rule 1210 sub rule (III) & (IV) of Delhi Prison Rules-2019, which states that:-

1210 sub rule (III):- "During the period of release on parole or furlough, if granted earlier, the convict should not have committed any crime."

1210 sub rule (IV):- "The convict should not have violated any terms and conditions of the parole or furlough granted previously". In this case, the aforesaid convict was released on 90 days emergency parole w.e.f. 15.05.2021, thereafter same was extended time to time. Further, he was • respondent-arrested in another case FIR No.120/23 u/s 25/54/59 AI Act, PS- Amar Colony on 08.03.2023...”

7. This Court notes that during the entire period of incarceration, the petitioner was granted furlough on about ten occasions and parole on about three occasions, and the liberty so granted was not misused by the petitioner. While serving his sentence in the prison, his jail conduct has been satisfactory, except for it being termed as ‘unsatisfactory’ due to the commission of the alleged offence under Sections 25/54/59 of Arms Act while he was released on emergency parole.



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8. This Court also takes note of the fact that the petitioner has been working as Ward Safai Sahayak in the jail and has been earning ₹10,000/- per month, and his entire stay in jail has not invited any adverse remarks from the prison authorities. Noteworthy is also the fact that the nominal roll reveals that in the meeting of Sentence Review Board which was held on 14.12.2022, the name of the petitioner was recommended for premature release; however, before his premature release, he was unfortunately re-arrested in another FIR registered for offences under Sections 25/54/59 of Arms Act, on 08.03.2023.

9. A perusal of nominal roll reveals that the petitioner herein has served sentence of about 15 years, and about 17 years with remission. The very fact that he had been recommended for premature release by the Sentence Review Board in the year 2022 itself, reflects that he had reformed himself, which is the main purpose of convict being confined within the four walls of a prison.

10. Considering the aforesaid facts and circumstances, this Court is inclined to grant parole to the petitioner for a period of four (04) weeks, subject to the 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, to the satisfaction of the Jail Superintendent concerned.
- 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 and shall not leave the National Capital Territory of Delhi during



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the period of parole.

- iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent, 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. 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.
11. With the above terms, the present writ petition is disposed of.
 12. A copy of this order be sent by the Registry to the Jail Superintendent concerned.
 13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 27, 2025/zp