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

+ **W.P.(CRL) 504/2025**

AJEET SINGH

.....Petitioner

Through: Mr. Shiv Chopra, Mr. Shravan
Pandey, Ms. Surbhi Arora, Mr.
Siddharth Arora, Mr. Dhananjay
Parth, Advs.

versus

STATE(NCT OF DELHI)

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC, (Crl.),
Mr. Arjit Sharma and Mr. Nikunj
Bindal and Ms. Nishtha Dhall,
Advocates.
SI Shubhanshu, PS Kalyanpuri, Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

16.05.2025

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1. Hearing in the present case has been conducted through hybrid mode.
2. The present petition under Article 226 of the Constitution of India has been filed seeking the following prayer: -

“a) Quash the order of rejection of Parole passed by the Respondent and issue a writ in the nature of Mandamus directing the Respondent to release the Petitioner on parole for a period of 8 (Eight) weeks from the date of his release; and/or

b) Pass any other order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the latter has been convicted in case FIR No. 588/2015 registered at PS Kalyan Puri, under Section 377 of the IPC and Section 6 of the POCSO Act. It is submitted that



vide order on sentence dated 10.05.2023, he has been sentenced to undergo rigorous imprisonment for a period of 10 years along with a fine of Rs. 10,000/- for the offence punishable under Section 6 of the POCSO Act and an appeal filed on behalf of the petitioner challenging his judgment of conviction dated 27.03.2023 and order on sentence dated 10.05.2023 was dismissed by a Coordinate Bench of this Court *vide* judgment dated 31.10.2023 passed in CRL.A. 612/2023 titled as 'Ajeet Singh v. State' (2023:DHC:8003).

4. It is submitted that an application seeking parole was rejected by the competent authority *vide* communication No. F.18/62/2024/HG/3359-60 dated 30.12.2024 on the following grounds: -

“1. As per Rule 1211 of Delhi Prison Rule-2018, which provide that:- "In the following cases, parole shall not be granted, except if in the discretion of the competent authority special circumstances exist for grant of parole

vii) If a prisoner is convicted under POCSO. In this regard, as per nominal roll, the said convict was guilty for committing offence punishable under POCSO Act.

2. As per recommendations received from the office of DG (Prisons), the request for grant of parole on the ground to get surgery of his hip as convict is unable to walk and dependent on wheel chair due to some complication to his hip bone, is concerned, the convict is being treated well in the Jail Dispensary (as per report of Senior Medical Officer of .Jail Dispensary). Therefore, this ground and to file SLP in Supreme Court of India being generic, does not attract exceptional conditions to qualify relief under rule 1211 of Delhi Prison Rules-2018.

3. As per medical status report in respect of the above said convict, Senior Medical Officer, CJ-11 has submitted that the above said inmate patient is a known case of pulmonary tuberculosis received complete treatment. At present, Patient/Inmate is stable and his vitals are within normal limits.

4. Further, as per nominal roll, the Superintendent Jail has not recommended grant of parole to said convict. Police authority has opposed the parole to said convict.”

5. Learned counsel for the petitioner submits that by way of the present



petition, the latter seeks parole for a period of 8 weeks for the purpose of filing a Special Leave Petition before the Hon'ble Supreme Court and on medical grounds. It is submitted that the petitioner, as on 14.05.2025, has undergone incarceration for approximately 2 years 10 months. It is further submitted that his jail conduct is satisfactory. The petitioner was released on bail during the course of the trial and he had not misused the liberty granted to him and duly surrendered after he was convicted by the learned Trial Court.

6. It is further submitted that conviction for commission of a serious offence cannot be the sole ground for rejection of parole. It is submitted that Rule 1211 of the Delhi Prison Rules provides that even in cases covered under the bar contained therein, parole can be granted, *"if in the discretion of the competent authority special circumstances exist for grant of parole"*. It is submitted that filing of an SLP has been judicially recognised as a 'special circumstance'. In support of the said contention, learned counsel for the petitioner has placed reliance on an order dated 12.09.2023 passed by this Court in W.P.(CRL) 996/2023 titled as 'Rahul Gupta v. State (NCT of Delhi)'. Learned counsel for the petitioner further submits that the latter has undergone bilateral total hip replacement surgery and is presently confined to wheelchair as he cannot walk without support/walker. He further submits that the house of the petitioner comprises of 2 storey building and in case, he is released on parole, he will be residing with his brothers at the ground floor and his family can stay at the first floor.

7. *Per contra*, learned Additional Standing Counsel for the State submits that the present petitioner has been convicted for commission of serious offences. It was further submitted that Rule 1211 of the Delhi Prison Rules, 2018 itself does not permit the present petitioner to be released on parole in



view of the fact that he has been convicted under POCSO Act.

8. Heard learned counsel for the parties and perused the record.

9. Rule 1211 of the Delhi Prison Rules, 2018 provides as under:

"1211. In the following cases, parole shall not be granted, except, if in the discretion of the competent authority special circumstances exist for grant of parole;

VII. If the prisoner is convicted under POCSO"

The present petitioner has been convicted for the offence punishable under Section 6 of the POCSO Act. Therefore, his case falls within sub-clause (VII) of Rule 1211. However, it is noted that the bar contained therein, is subject to existence of 'special circumstances'.

10. A learned Single Judge of this Court, in **Rakesh v. State (NCT of Delhi, 2022 SCC OnLine Del 1346**, while granting parole to a petitioner convicted for offences under the Protection of Children From Sexual Offences Act, 2012, held as under: -

"8. As regards the observation that filing of SLP constitutes no "special circumstance" as there is free legal aid available, suffice it to note that the courts have not agreed with this stance of the Government. Under Article 22(1) of the Constitution as well as Section 303 Cr.P.C., an accused person has been guaranteed with a Constitutional right to engage a counsel/pleader of his own choice. It is no doubt true that the Legal Services Authorities at all levels endeavour to provide excellent legal assistance to those in prison. But, to deny the convict an opportunity to engage with other counsel to enable him to make up his mind freely, as to whom he would wish to engage, would violate his constitutional rights to legal representation. In fact, it is because of the recognition of this right that the State Prison Rules, 2018 dealing with parole and furlough, recognizes that regular parole under Rule 1208 can be granted to a convict, to pursue filing of a Special Leave Petition before the Supreme Court.

9. While this ground in the impugned order does not hold water, the



more serious objection is encapsulated in ground (1), namely, that the Rules itself do not permit a prisoner convicted under POCSO Act for parole. It would be useful to reproduce Rule 1211 for ready reference, as below :

“1211. In the following cases, parole shall not be granted, except, if in the discretion of the competent authority special circumstances exist for grant of parole;

(I) to (VI) ***

(VII) If the prisoner is convicted under POCSO;”

10. But this bar is not absolute, for, the competent authority has been vested with “discretion” even in such cases, to grant parole, provided there were special circumstances. It is clear that the impugned order does not refer to the “special circumstances” that were required to be considered and were found insufficient to grant parole. Rather, it is clear that the “special circumstances” or rather their absence, have been referred to only in respect of the filing of an SLP, but not for the entitlement of the applicant for parole under Rule 1211(VII) of the State Prison Rules.

11. To reiterate, a convict under the Pocso Act is not barred from seeking parole, as discretion has been vested in the competent authority to grant parole to such a convict under “special circumstances”. What those “special circumstances” would be have not been spelt out. Nevertheless, it is clear that the facts of each case would reveal the “special circumstances” for grant of parole. The competent authority should keep in mind the purpose of parole as listed out in Rule 1200 of the Prison Rules. These are reproduced below for ready reference :

“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.”

12. As has been held in *Mahinder Singh v. State (NCT of Delhi)*



[*Mahinder Singh v. State (NCT of Delhi)*, 2009 SCC OnLine Del 4411], the grounds for declining parole are the following :

“(i) a reasonable apprehension, based upon material available with the Government such as the circumstances in which the offence is alleged to have been committed by him and the other cases if any in which he is involved, that the petitioner, if released on bail may not return back to jail to undergo the remaining portion of the sentence awarded to him;

(ii) a serious apprehension of breach of law and order or commission of another offence by the petitioner if he comes out on parole;

(iii) past conduct of the petitioner such as jumping the bail or parole granted earlier to him; and

(iv) a reasonable possibility of the petitioner trying to intimidate or harm those who have deposed against him or their relatives.”

13. Balancing the two would be an expected exercise of the respondent Department, while recommending parole or rejecting the application.

14. In the present case, the petitioner is one who has remained interned in prison for 8 years and more. He has never availed of bail, furlough or parole so far as revealed by the nominal roll. This continuous incarceration would be a significant factor for grant of parole. The long incarceration would have disrupted his family life and would have definitely impacted him physically and psychologically. In fact, all the objectives listed in Rule 1200 are applicable to him.

15. Moreover, he has, in all these times, maintained good conduct and discipline in the prison. There is no reasonable apprehension that the petitioner, if released on parole, may not return back to jail to undergo the remaining portion of the sentence awarded to him, or that he may escape the law, or that he may once again indulge in the same activity. Since the appeal has been already disposed of, there is no possibility of his intimidating or harming those who have deposed against him. In fact, the status report does not reveal any such possibility."

11. A Coordinate Bench of this Court, in **Neeraj Bhatt v. State (Govt. of NCT) of Delhi**, 2023 SCC OnLine Del 32, while granting parole to a convict under the POCSO Act held as under: -

"6. It would be useful to reproduce Rule 1211 for ready reference, as below:—

"1211. In the following cases, parole shall not be granted, except, if in the discretion of the competent authority special circumstances exist



for grant of parole;

I. to VI. xxx xxx

VII. If the prisoner is convicted under POCSO."

7. The bar in the said rule is not absolute since the competent authority has the discretion, even in such cases, to grant parole, provided there exist special circumstances. Though the special circumstances were to be considered by the competent authority, the impugned order does not refer to the special circumstances and that they were found insufficient for grant of parole, rather it only mentions that the SLP can be filed from the jail itself and that the conduct of the applicant was not satisfactory.

8. In this Court's opinion, the right of a citizen to avail a legal remedy in the final court of country, which may often be the last ray of hope, cannot be denied on such ground.

9. As per Rule 1211 of Delhi Prison Rule, 2018, it clearly mentions that parole in the circumstances mentioned in the said Rule can be granted in the discretion of the competent authority if special circumstances exist for grant of parole. The ground taken by the petitioner for grant of parole in the present case is filing of SLP against the judgment of the High Court in Criminal Appeal No. 391/2020 which was decided on 04.07.2022 whereby the judgment of conviction dated 05.12.2019 and order on sentence dated 19.12.2019 were upheld. It is the right of a citizen to effectively pursue his legal remedy in the last court of justice in the county by filing SLP through a counsel of his own choice which is a valuable right. This cannot be withheld merely on the basis of his past conduct or on the ground that free legal aid is available and that SLP can be filed from the jail itself. Needless to say, availing his legal remedy in the Apex Court of the country is the right of the petitioner and this Court is not inclined to withdraw the same."

(emphasis supplied)

12. In view of the above, this Court is of the opinion that the bar contained in Rule 1211 of the Delhi Prison Rules is not absolute. The ground taken herein, i.e., filing on an SLP constitutes a 'special circumstance' in terms of the said rule.

13. Medical report was called regarding the health condition and ailments of the petitioner from the concerned Medical Superintendent, Central Jail



No.11, Mandoli, Delhi, *vide* order dated 20.03.2025. In pursuance of the same, latest report dated 14.05.2025 has been placed on record, wherein it is recorded as under: -

- “1. The inmate/ patient is currently lodged in central jail no 11.
2. He is a follow up case of bilateral total hip replacement, surgery done at Safdarjung Hospital in orthopedic department on 18.11.24 and 02.12.24 after that further follow up was done on 24.12.24, 24.01.25, 28.02.23 and again reviewed Safdarjung Hospital in orthopedic department on dated 04.04.25, treated doctor advised him to continue physiotherapy and walk without walker. They also prescribed medications that are receiving from jail dispensary on regular basis.
3. Jail visiting physiotherapist already taught exercises to him. He will be further followed up on dated 03.06.25 at Safdarjung Hospital in orthopedic department.
4. At present, patient is stable and his vitals are within normal limits.”

14. Status report dated 30.04.2025 verifying the place of stay of the petitioner, *i.e.*, his house, has been handed up in Court today, wherein it is stated that the statements of the wife, son and brothers of the petitioner have been recorded, whereby they have given their no objection if the petitioner resides with his brothers, in case, he is released on parole. The said status report is taken on record.

15. Perusal of the nominal roll dated 14.05.2025 reflects that the jail conduct of the petitioner is satisfactory and he is not involved in any other case. Nominal roll further reflects that the petitioner, as on 14.05.2025, had undergone incarceration for approximately 2 years 10 months including the remissions earned by him during his custody period. It is further noted that during the course of trial, the present petitioner was on bail and he had not misused the liberty granted to him and had duly surrendered after conviction.

16. In view of the judicial pronouncements cited hereinabove and in view of the facts and circumstances of the case, the present petition is partly



allowed. The petitioner is directed to be released on parole for a period of four weeks from the date of his release, subject to the following conditions: -

- i) The petitioner shall furnish a personal bond in the sum of Rs.20,000/- with one surety of the like amount, who shall be a family member of the petitioner, to the satisfaction of the concerned Jail Superintendent.
 - ii) The memo of parties reflects that the petitioner resides at House No. 20/144, Kalyan Puri, Delhi. In case of any change in address, the petitioner is directed to inform the same to the concerned Jail Superintendent.
 - iii) The petitioner shall not leave the territory of State NCT of Delhi during the period of parole.
 - iv) The petitioner shall furnish his mobile number to the concerned jail authorities and to the Investigating Officer and keep it operational at all times.
 - v) The petitioner shall surrender before the concerned jail authorities immediately upon the expiry of his parole.
 - vi) The petitioner shall reside with his brothers at his house on the ground floor and shall not try to contact the survivor in any manner whether directly or indirectly.
17. The petition is partly allowed and disposed of accordingly.
 18. Pending applications, if any, also stand disposed of.
 19. Copy of this order be sent to the concerned Jail Superintendent for necessary information and compliance.



20. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

MAY 16, 2025/kr/bsr/ns

Click here to check corrigendum, if any