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

+ **W.P.(CRL) 713/2025**

PAPPU

.....Petitioner

Through: Mr. Satyam Thareja, Adv.(DHCLSC)
and Mr. Shikhar Yadav, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, Senior Standing
Counsel with Mr. Aryan Sachdeva,
Mr. Abhinav Arya, Adv.
SI Ankit Maan, P.S.Subhash Place.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **25.07.2025**

1. The present petition has been filed under Article 226 of the Constitution read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”] for issuance of writ in the nature of Certiorari for quashing of the Rejection order no. F.18/73/2024/HG/3363-64 dated 30.12.2024 and also for issuance of writ in the nature of Mandamus directing the respondent to release the petitioner on parole for a period of two months on the ground of filing Special Leave Petition (“SLP”) before the Hon’ble Supreme Court against the judgment dated 13.10.2022 passed by this Court in Criminal Appeal No. 584/2015 whereby the conviction and order on sentence was passed by learned Additional Sessions Judge, Rohini Courts, Delhi.



2. Petitioner was arrested in connection with case FIR No.374/2014 under sections 376/511 IPC and section 10 POCSO Act registered at PS Saraswati Vihar and vide judgment dated 06.02.2015, he was convicted under sections 363/376 IPC and section 10 POCSO Act by learned ASJ-01, North West, Rohini Courts, Delhi and vide order on sentence dated 11.02.2015, the petitioner was sentenced to undergo rigorous imprisonment for five years along with fine of Rs.25,000/- and in default, to undergo further simple imprisonment for 03 months.

3. Learned Counsel for the petitioner states that petitioner is presently confined in Central Jail No. 2, Tihar, New Delhi and has already undergone incarceration of about 03 years, 1 month and 15 days (excluding remission) out of R.I. for five years and fine. It is stated by learned counsel for the petitioner that petitioner desires to file an SLP through counsel of his choice and to maintain social ties-for which he has sought parole. It is further stated that vide Rejection order no. F.18/73/2024/HG/3363-64 dated 30.12.2024 filed before the Home Department, Government of NCT of Delhi, the application of the petitioner seeking parole was dismissed by respondent, observing that grant of parole on the ground of social ties being generic, does not attract exceptional conditions to qualify relief under Rule 1211 of Delhi Prisons Rules, 2018.

4. In support of his arguments, the learned counsel for the petitioner has placed reliance on ***Chhedi Paswan v. State (NCT of Delhi)***, 2021 SCC OnLine Del 2230, to submit that parole has been granted to POCSO convicts despite the bar under rule 1211 of the Delhi Prisons Rules, 2018. He also



placed reliance on ***Rakesh @ Diwan v. State of NCT of Delhi***, W.P.(CRL.)480/2022 decided on 05.05.2022; ***Shivam Singh v State of NCT of Delhi*** 2024 SCC OnLine Del 5567; ***Bharat Bhardwaj v State*** 2024SCC OnLine Del 4180; ***Neeraj Bhatt v. State of NCT of Delhi***2023 SCC OnLine Del 32 and ***Raj Kumar @ Bheema v State***, W.P.(Crl.) 150/2023 decided on 14.09.2023 to submit that it is the Constitutional right of the accused under Article 21 of the Constitution and Section 303 Cr. PC to engage a counsel of his choice.

5. *Per contra*, learned SSC for the State submits that the appeal preferred by the petitioner was decided by this Court vide order dated 13.10.2022 and that the petitioner waited almost 2 years to file SLP against it. The Ld. SSC contended that considering the gravity of the offence committed by the petitioner and his conviction under POCSO Act, parole cannot be granted to the petitioner.

6. The learned SSC for the State also invites the attention of this Court to Rule 1210 and Rule 1211 of Delhi Prison Rules, 2018 to argue that petitioner is not entitled to parole. It is stated that as per the Nominal Roll, the petitioner has been sentenced to undergo RI for 05 years alongwith fine of Rs.25,000/- and in default, to undergo further SI for 03 months and the remaining sentence to be undergone is 01 year, 03 months and 18 days as on 01.02.2025. Currently, since 06 months have lapsed, the petitioner has to undergo remaining period of only 10 months (approximately) of his sentence. Ld. SSC also states that there is no illegality in the order passed by



the competent authority i.e. Home Department, NCT of Delhi and, therefore, the present petition be rejected.

7. It would be apposite to reproduce Rule 1211 for ready reference, as below:-

“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_xxxxxxx

(VII) If prisoner is convicted under POCSO.”

8. The aforesaid Rule clearly mentions that parole can be granted in the discretion of competent authority if special circumstances exists for the grant of parole. 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”.

9. 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. 584/2015. It is the right of a citizen to effectively pursue his legal remedy, which is a valuable right. Though, such special circumstances were to be considered by the competent authority, the perusal of the impugned rejection order reveals that it does not refer to the aforesaid special circumstance and parole has been rejected simply stating that the ground of special social ties being generic, does not attract exceptional condition to qualify relief under Rule 1211 of Delhi Prison Rules, 2018. The



impugned order does not refer to the ground taken by the petitioner that the parole is required for filing the SLP.

10. The Court is also conscious of the fact that petitioner has been continuously in jail for a long period. He did not avail the furlough or parole and his conduct during incarceration has been satisfactory. As per status report, no previous involvement of the petitioner has been found besides this case.

11. In this view of the matter, the present petition is allowed. The concerned Jail Superintendent is directed to release the petitioner on parole for a period of four weeks on his furnishing a personal bond in the sum of Rs.20,000/- with one surety of the like amount, to the satisfaction of Jail Superintendent and subject to following conditions:

- (i) The petitioner shall not leave NCR Region without informing the local SHO;
- (ii) The petitioner shall furnish his mobile phone/landline number and residential address as well as that of his surety to the Jail Superintendent/SHO and shall keep his mobile/landline phones operational at all times during the parole period and in the event of any change of the same, will immediately inform the same to the Jail Superintendent/SHO;
- (iii) The petitioner shall report to the SHO of the local area, once a week on every Sunday at 10 AM and shall not leave the National Capital Territory of Delhi during the period of parole without informing the local SHO;



(iv) Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent;

(v) The petitioner shall furnish a copy of the SLP filed in the Supreme Court to the Superintendent Jail at the time of surrendering. A copy of the SLP shall also be placed on record in court;

(vi) The period of parole shall be counted from the day when the petitioner is released from jail.

12. In the above terms, the present petition along with pending application(s), if any, stands disposed of.

13. The judgment be uploaded on the website forthwith and a copy of this order be sent by the Registry to the Jail Superintendent for necessary compliance.

RAVINDER DUDEJA, J.

JULY 25, 2025

AK/RM