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

+ **W.P.(CRL) 1794/2023**

CHANDER PRAKASH

.....Petitioner

Through: Mr. Archit Upadhayay, Advocate
(DHCLSC) with Ms. Shradna
Mewati, Advocate

versus

STATE

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC (Crl.) for
the State with Mr. Arjit Sharma, Mr.
Nikunj Bindal, Advocates along with
SI Vinod Kumar, PS Sangam Vihar

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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10.02.2025

CRL.M.A. 942/2025 (for early hearing)

1. For the reasons and grounds stated in the application, the same is allowed and the main writ petition is taken up on Board today itself.
2. Accordingly, the present application is disposed of.

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3. The present petition filed under Article 226 of the Constitution of India, 1950 impugns the punishment ticket No. 286 dated 21st May, 2022¹ and the judicial appraisal order dated 21st December, 2022 whereby *Mulakat*, phone facility and canteen services for the Petitioner were stopped

¹ "the impugned punishment ticket"



for a period of 15 days. The punishment ticket reads as follows:

"IT IS SUBMITTED THAT ON 14.05.2022, THE ABOVE SAID CONVICT PRISONER/PATIENT GONE TO OFFICE OF THE MEDICAL OFFICER, CENTRAL JAIL HOSPITAL, CJ-03, WHERE HE MISBEHAVED WITH DR. RAVINDER KUMAR, MEDICAL OFFICER, CJ-03 HOSPITAL AND ALSO REFUSED TO TAKE ALL KIND OF TREATMENT FROM JAIL HOSPITAL AS WELL AS OUTSIDE HOSPITAL. (COPY OF LETTER DATED 04.05.2022 RECEIVED FROM MEDICAL OFFICER, CJ-03 HOSPITAL IS ATTACHED)

THUS, SUCH CONDUCT OF THE ABOVE SAID CTP IS AGAINST THE DELHI PRISONS RULES 2018. HENCE, HE MAY BE PUNISHED AS PER RULE.

Heard in the presence of Sh. Shivanand Kumar (DS) and Sh. Avish Tomar (AS). The above mentioned inmate admitted their offence and hence their "mulakat" for 15 days, "phone facility" for 15 days and "canteen" services for 15 days is stopped subject to approval of Ld, DSJ."

4. The Petitioner is serving life sentence awarded in respect of proceedings arising under Sections 302/201/34 of the Indian Penal Code, 1860 and Sections 25/54/59 of the Arms Act, 1959.

5. The impugned punishment ticket is based on communication dated 14th May, 2022 received from the Medical Officer Incharge of the Central Jail Hospital, Tihar wherein it is stated that the Petitioner has misbehaved with the said Officer. The said communication reads as follows:

"Sub:Refusal for treatment by inmate patient Chanderprakash s/o Durjan Singh

With respect to above mentioned subject, it is submitted that above said patient is a case of Cholelithiasis with Cholecystitis under follow-up of GB Pant Hospital, GI Surgery Department. He was scheduled for admission in GB Pant Hospital on 20/04/2022 but due to shortage of DAP personnel patient could not visit GB Pant Hospital on 20/04/2022. On 21/04/2022, patient was again planned for GB Pant Hospital in emergency but patient refused to go to outside Hospital. Patient was sent to GB Pant Hospital for admission on 04/05/2022 but DAP personnel refused for his admission for security reasons.

Today on 14/05/2022, patient came to the office of undersigned



and misbehaved with the undersigned and refused for all kind of treatment from Jail Hospital as well as outside hospital.

This is for your kind information and further intimation of concerned court.”

6. During the course of proceedings, it was revealed that the Petitioner had admitted to his offence in the presence of the Assistant Superintendent of Jail and the Deputy Superintendent of Jail. Since this case involves a confession, no further inquiry was deemed necessary. However, a crucial procedural lapse arises in light of Rule 90(51) of the Delhi Prison Rules, 2018, which mandates that any confessional statement made by an offender must be recorded in the presence of two independent witnesses.

7. While the presence of the two jail officers (Assistant Superintendent and Deputy Superintendent) is noted at the time of award of the punishment by the Jail Superintendent, however, the confession stands uncorroborated by any independent witnesses, thereby violating the procedural safeguards envisaged under the Delhi Prison Rules, 2018. This procedural irregularity undermines the foundation upon which the punishment has been awarded.

8. At this juncture, it is noticed that letter dated 14th May, 2022 issued by the Medical Officer Incharge notes that when the Petitioner met the Medical Officer Incharge on 14th May, 2022, he refused all treatment, both from the jail hospital as well as from outside the hospital. The Court finds no reason to doubt these observations, however in absence of confession and denial of charge would have warranted an inquiry by the Jail Superintendent to ascertain the facts.

9. Thus, since the impugned punishment ticket is based solely on the Petitioner's confession, which was not recorded in the presence of independent witnesses but only before the two jail officers, who were parties



to the proceedings for award of punishment, the Court finds the impugned decision to be unsustainable. Accordingly, the present petition is disposed of with the following directions:

(a) The punishment ticket dated 14th May, 2022 and the appraisal order dated 21st December, 2022, passed by the District and Sessions Judge, Tis Hazari Courts, are hereby quashed.

(b) The Respondent is at liberty to initiate a fresh inquiry against the Petitioner, should they deem it necessary, strictly in accordance with the Delhi Prison Rules, 2018.

10. In view of the above, the present petition along with pending applications, is disposed of.

11. All rights and contentions of the parties are left open.

12. The next date of hearing, i.e. 06th March, 2025, stands cancelled.

SANJEEV NARULA, J

FEBRUARY 10, 2025/ab