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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1630/2025 & CRL.M.A. 25566/2025**
MOHD. AYOUB MIRPetitioner

Through: Mr. Sarthak Maggon and Mr. Raunak Parmar, Advocates.

versus

STATE OF NCT OF DELHI AND ANRRespondents
Through: Mr. Sanjeev Bhandari, ASC for State with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates.
Mr. Rushab Aggarwal and Mr. Japnish Singh Bhatia, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
23.09.2025

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1. The Petitioner stands convicted in FIR No. 34/2002 registered at P.S. Special Cell under Sections 3(5)/20/22(2) of the Prevention of Terrorism Act, 2002,¹ and is presently serving a sentence of life imprisonment. His conviction and sentence were affirmed by a Division Bench of this Court on 9th January, 2006 in *Mohammad Ayoub Mir v. State, Crl. A. 384/2004*.
2. The record shows that the Petitioner was initially granted parole on 20th May, 2015, which was extended periodically until 23rd February, 2018, when it was cancelled by the Superintendent of Central Jail, Srinagar, based on an internal report from the SHO, P.S. Nigeen, alleging that the Petitioner



was instigating local youth in Srinagar to join terrorist activities.

3. On 28th February, 2023, the Petitioner filed a fresh parole representation with the competent authority, citing his wife's deteriorating health as the basis for the request. He thereafter filed *W.P. (Crl.) No. 1376/2024*, which was disposed of on 16th May, 2024, with a direction that the Competent Authority communicate its decision on the Petitioner's parole application within fifteen days. As no decision followed, the Petitioner filed an application for compliance. Ultimately, the Competent Authority rejected the Petitioner's request for parole by order dated 25th October, 2024, bearing No. F.18/82/2023/HG/2603. Thereafter, the Petitioner filed an amended petition on 7th November, 2024 in *W.P. (Crl.) No. 1376/2024* impugning the order dated 25th October, 2024.

4. During the pendency of these proceedings, the Petitioner fell ill and sought either early release or parole for private medical treatment. By order dated 24th February, 2025 in *W.P. (Crl.) No. 1376/2024* this Court directed the Jail Authorities in Delhi to consider the parole application afresh. On 15th April, 2025, the request was rejected by the Government of NCT of Delhi, Home (General) Department on the grounds that the Petitioner's prior conduct while on parole was unsatisfactory, given his involvement in instigating youth in Srinagar to join terrorists, and that he was receiving adequate treatment in Jammu with signs of health improvement. Taking cognizance of this decision, this Court by order dated 21st May, 2025 disposed of *W.P. 1376/2024* along with pending applications as infructuous.

5. By way of the present petition under Article 226 of the Constitution of India the Petitioner impugns the order dated 15th April, 2025 rejecting his

¹ "POTA"



parole application and seeks parole for a period of eight weeks, on the grounds of, *inter alia*, maintaining social ties, attending to his medical needs, addressing the consequences of demolition of his house, caring for his disabled daughter, and the length of his incarceration.

6. Mr. Sarthak Maggon, counsel for the Petitioner, contends that the impugned order dated 15th April, 2025 is legally unsustainable. He submits that it is unreasoned and does not address the specific grounds raised by the Petitioner. He emphasises that the seriousness of the offence alone cannot justify denial of parole, as consistently recognised in judicial precedents. Further, Rule 1211 of the Delhi Prison Rules, 2018 is not absolute, and the Respondents have not shown that the Petitioner's release would threaten public order or security. By contrast, the Petitioner's prior parole from 2015 to 2018 demonstrates good conduct, with extensions granted repeatedly on account of satisfactory behaviour, as reflected in the nominal roll.

7. On medical grounds, Mr. Maggon underscores that the Petitioner is battling a serious and life-threatening illness, necessitating specialised treatment. He contends that the Respondents have consistently downplayed the gravity of his condition by representing him as "stable" while simultaneously failing to provide adequate medical care. The medical records annexed to the petition, including the latest dated 12th August, 2025, according to him, establish the deteriorating state of the Petitioner's health, warranting release on humanitarian considerations.

8. Apart from health, Mr. Maggon highlights the compelling family circumstances pleaded by the Petitioner. He points out that the Petitioner's daughter is disabled and requires regular care and support, which has been severely affected by his prolonged absence. Further, it is stated that the



Petitioner's family home has been demolished, leaving his dependants in a state of insecurity. These circumstances, counsel argues, cumulatively constitute "special reasons" for temporary release under the applicable rules.

9. Mr. Maggon also presses the ground of prolonged incarceration, submitting that the Petitioner has already undergone more than 22 years of imprisonment with remission. He submits that the object of parole is to enable convicts to maintain social and family ties, which in turn assists their reformation and reintegration. The denial of parole, despite such a long period of incarceration, he argues, amounts to negation of the Petitioner's constitutional right to fair consideration of his request under Article 21. Reliance is placed on decisions such as *State v. Mahender*² and on this Court's judgment in *Office of the Lieutenant Governor of Delhi v. Naveen Ahuja*³, where it was held that during the pendency of premature release consideration, parole may be granted, particularly when the convict has already served over two decades in custody.

10. Summing up, counsel urges that the rejection order reflects a mechanical approach, disregards the humanitarian factors pressed, and fails to apply the settled principles governing parole. He reiterates that the Petitioner's earlier conduct on parole was satisfactory, that he undertakes to abide by any conditions that may be imposed, and that release on parole would neither prejudice the trial nor compromise public safety.

11. *Per Contra*, the request for parole is strenuously opposed by Mr. Rushab Aggarwal, Standing Counsel for the Union Territory of Jammu & Kashmir and Mr. Sanjeev Bhandari, ASC for the State. They submit that the

² (2007) 13 SCC 606.

³ W.P. (Crl) 730/2023 decided on 22nd August, 2025.



Petitioner's case does not merit any indulgence, either on medical or on humanitarian grounds. It is urged that the Petitioner stands convicted for grave and serious offences under POTA, and the nature of his conviction itself militates against the grant of parole, which is an extraordinary concession rather than a matter of right.

12. In so far as the plea of medical illness is concerned, they submit that the Petitioner is receiving the best possible treatment at Government Medical College, Jammu, a tertiary care facility fully equipped to manage his condition. His medical records, placed both by the jail authorities and by the Petitioner himself, reveal that he has undergone regular examinations, diagnostic tests, and interventions, including biopsy and histopathological analysis, and that his condition is under continuous supervision. Reliance is placed on the order dated 20th August, 2025, wherein this Court suggested that the Petitioner be transferred to a Cancer Hospital in Delhi to ensure better treatment and to enable his family to remain by his side. However, the Petitioner did not avail of this option. In the backdrop of this order, it is contended that the Petitioner's plea for release from custody solely on the ground of medical illness cannot be sustained, particularly when appropriate medical care is already accessible under the State's supervision.

13. Counsel further stress that the Petitioner's track record during his previous release disentitles him from any further concession. It is pointed out that although he was enlarged on parole between May 2015 and February 2018, reports furnished by the SHO, P.S. Nigeeen, and endorsed by the Senior Superintendent of Police, Srinagar, noted that during this period the Petitioner engaged in activities aimed at instigating local youth to join militant ranks. These inputs formed the basis for cancellation of his parole in



2018. The Petitioner's earlier misuse of liberty provides a strong indicator of the risks inherent in releasing him again. They also place reliance on subsequent incidents inside prison. Specifically, they refer to FIR No. 08/2018 registered at P.S. Rainawari on 2nd March, 2018, alleging that the Petitioner instigated fellow inmates in Central Jail, Srinagar, to raise anti-national slogans. In consequence of this incident, and to prevent further disruption, the Petitioner was shifted from Central Jail, Srinagar, to Kot Bhalwal Jail, Jammu. This episode, according to the Respondents, demonstrates that even within the custodial environment the Petitioner continued to exhibit conduct inconsistent with discipline and inimical to national security.

14. On these premises, the Respondents urge that the apprehension of the Petitioner resuming anti-national activities if released is neither speculative nor unfounded, but grounded in past conduct as well as intelligence inputs. They contend that parole, being discretionary and subject to considerations of security and public order, cannot be claimed as a matter of course. Accordingly, the petition, in their submission, deserves to be dismissed.

15. In rejoinder, Mr. Maggon, argues that reliance on the 2018 incident is misplaced, as the chargesheet in FIR No. 08/2018 was filed after a delay of nearly eight years thereby rendering its reliability questionable. He further points out that the nominal roll makes no reference to this case, weakening the Respondents' stance. Reliance is also placed on the Supreme Court's order in *Mohd. Ayoub Dar v. State of Jammu and Kashmir*, where parole was granted to a convict charge-sheeted in the very same FIR, underscoring that the need for medical care outweighs even serious charges.

16. Mr. Maggon further submits that far from painting the Petitioner as a



security threat, the record reflects that his antecedents have been found to be satisfactory. In support of this contention, reliance is placed on the order dated 12th March, 2018 passed by the Chief Judicial Magistrate, Srinagar, which specifically recorded the Petitioner's good conduct during his earlier period of parole. He maintains that this judicial finding, rendered contemporaneously on the basis of reports furnished by the local police, cannot be brushed aside and must weigh in the balance when assessing whether the Petitioner should be granted parole.

17. The Court has considered the rival submissions and perused the material placed on record. The Petitioner stands convicted under serious provisions of POTA and is undergoing a sentence of life imprisonment. The nominal roll shows that, as on 19th May, 2025, he has remained in custody for more than 20 years and 6 months, with his conduct in jail during the last one year reported as satisfactory.

18. The fact that the Petitioner has been diagnosed with cancer is not in dispute. He has been receiving treatment at Government Medical College, Jammu, and the medical records disclose that necessary diagnostic procedures and consultations have been undertaken. The grievance of the Petitioner, however, is that treatment in Jammu is inadequate and that he should be permitted to undergo medical care at Sher-i-Kashmir Institute of Medical Sciences, Srinagar, where his family is also located. On a purely humanitarian plane, the long duration of incarceration, coupled with his present ailment, would normally constitute factors that weigh in favour of a limited release on parole.

19. That said, the concerns voiced by the Respondents cannot be brushed aside. The Union Territory of Jammu & Kashmir has placed reliance on



reports indicating that during an earlier spell of parole between 2015 and 2018, the Petitioner was allegedly involved in activities inciting youth to join militant ranks in Srinagar. There is also reference to an incident inside Central Jail, Srinagar in 2018, resulting in his transfer to Kot Bhalwal Jail, Jammu. Taken together with intelligence assessments, these factors indicate a genuine apprehension that, if the Petitioner is transferred to Srinagar on parole, he may again engage in activities causing disorder.

20. During the course of hearing, the Court explored whether parole could be structured with stringent conditions, including restricting the Petitioner's movement to the city of Jammu, thereby enabling medical treatment while safeguarding against possible misuse. However, counsel for the Petitioner submitted that such an arrangement would not meet his concerns, as his preference is for treatment at Sher-i-Kashmir Institute of Medical Sciences, Srinagar, and because his family, owing to financial hardship, is unable to travel to Jammu. In these circumstances, this option is foreclosed.

21. It is well settled that parole is not an entitlement that a prisoner can claim as a matter of right; rather, it is a concession or privilege granted by the competent authority, subject to the fulfilment of prescribed conditions and the satisfaction of statutory requirements.⁴ When there are factors indicating potential security risks in releasing a convict on parole, such considerations must carry due weight in the Court's decision.⁵

22. Having regard to the humanitarian considerations against the countervailing security concerns, this Court finds that the balance presently tilts against the grant of parole. While prolonged incarceration and medical

⁴ *The Home Secretary (Prisons) & Ors. v. H. Nilofer Nisha* (2020) 14 SCC 161.

⁵ *Asfaq v. State of Rajasthan* (2017) 15 SCC 55.



illness are factors of significance, the credible apprehension articulated by the Respondents, based on prior conduct and intelligence inputs, cannot be disregarded. The request for parole is, therefore, declined.

23. Nevertheless, this Court directs that the Petitioner shall continue to receive the best possible medical care at Government Medical College, Jammu. If a medical board recommends specialised treatment not available in Jammu, the authorities shall facilitate his transfer to an appropriate tertiary centre without delay.

24. With these observations, the writ petition stands dismissed. Pending applications also stand disposed of.

SANJEEV NARULA, J

SEPTEMBER 23, 2025

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