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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3419/2025 & CRL.M.A. 31079/2025

MOHD IQBAL

.....Petitioner

Through: Ms. Vrinda Bhandari and
Ms. Nitya Jain, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC for
the State with Mr. Ashvini
Kumar, Mr. Nitish
Dhawan, Mr. Manan
Wadhwa and Mr. Anshul
Sharma, Advs. with SI
Sheetal, PS Hauz Khas.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

12.11.2025

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1. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter* “**BNSS**”) seeking issuance of writ in the nature of mandamus for directing the Respondent authorities to release the Petitioner on parole for a period of 8 weeks, on the main ground of filing Special Leave Petition (*hereinafter* “**SLP**”) before the Hon’ble Supreme Court against the judgement dated 25.02.2025 passed by this Court in Crl. A. No. 824/2023, upholding the judgment of conviction dated 27.02.2023 as well as the Order on sentence dated 23.05.2023.
2. The petitioner was arrested in FIR No. 91/2018 registered at Police Station Hauz Khas under section 354A IPC & 10 r/w

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9(e) POCSO Act and was convicted for the offences under section 10 read with section 9(e) of POCSO Act and section 354A of IPC and sentenced to undergo 7 years of rigorous imprisonment.

3. The learned Counsel for the Petitioner submits that the petitioner is presently confined in Central Jail No. 7, Tihar, New Delhi and has already undergone incarceration of about 3 years in actual without remissions.

4. It is submitted that the petitioner had approached this Court by way of W.P. (Crl.) 2998/2025, being aggrieved that his application seeking parole has not been decided, despite more than three months having elapsed. This Court *vide* Order dated 16.09.2025 had directed the respondent authorities to decide the petitioner's application seeking parole within a period of two weeks. However, despite the directions passed by this Court, the Application of the petitioner seeking parole still remains undecided.

5. It has been further submitted that the Petitioner will be staying in Bihar, pursuant to his release and in accordance with the Rule 1213(8) of Delhi Prison Rules, 2018, in case no police report is received from other State within a period of four weeks, it is to be presumed that the authorities in the other State have no objection to the parole being granted and the application should be disposed of on its own merits.

6. It is further submitted that the petitioner's overall jail conduct is satisfactory and he is working as *langar sahayak*. He is seeking parole for a period of eight weeks in order to pursue the filing of a Special Leave Petition before the Supreme Court.

7. To buttress the arguments advanced, the counsel for the
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petitioner has placed reliance upon judgment dated 13.10.2025 in W.P.(Crl.) 2924/2025 titled ***Sunil Sharma v. the State NCT of Delhi*** and Order dated 25.07.2025 in W.P.(Crl.)713/2025 titled ***Pappu v. the State NCT of Delhi*** .

8. At this juncture it would be apposite to understand the contours of Rule 1211 of the Delhi Prison Rules 2018, which reads as under: -

“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;

Xxx xxxx xxxx

VII. If the prisoner is convicted under POCSO;”

9. A plain reading of the above provision makes it abundantly clear that the restriction imposed therein is not absolute. The rule itself carves out an exception, empowering the competent authority to consider grant of parole even to a convict under the POCSO Act, provided that “*special circumstances*” exist warranting such indulgence. Thus, the discretion of the competent authority is not absolute, and each case must be examined on its own facts to ascertain whether such special circumstances are made out.

10. It is no more *res integra* that filing of an SLP before the Hon’ble Supreme Court qualifies as a “*special circumstance*” for considering application seeking grant of parole by a convict falling under the bar of Rule 1211.

11. In the case of in ***Rakesh v. State NCT of Delhi: 2022 SCC OnLine Del 1346***, it had been 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. xxx xxx

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....."

12. Similar observations were made in the case of **Neeraj Bhatt v. The State (Govt. of NCT) of Delhi: 2023 SCC OnLine Del 32**, wherein, while granting parole to a prisoner for the purpose of filing of SLP before the Hon^{ble} Supreme Court, who was convicted for commission of offence under POCSO Act, it was observed that:

"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 country 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 no objection to parole being granted of the country is the right of the petitioner and this Court is not inclined to withdraw the same.”

13. A similar view has been taken in **Sunil Sharma** (supra) and **Pappu** (supra), wherein convicts under the POCSO Act were granted parole for the purpose of filing Special Leave Petitions before the Hon’ble Supreme Court. It stands well settled that the filing of an SLP constitutes a “special circumstance” within the meaning of Rule 1211, justifying the grant of parole in appropriate cases.

14. Additionally, a perusal of the Rule 1213(8) of Delhi Prison Rules, 2018, demonstrates that if no report is received by the Superintendent of Jail within four weeks, then it is to be presumed that the police authorities, of the other State where the convict wishes to reside, have no objection to parole being granted.



15. In the present case, neither the report has been filed nor any other impediment has been pointed out in regard to the petitioner being granted the benefit of parole.

16. It is even evident from the Nominal Roll of the petitioner that he has been working as a langar Sahayak inside the jail, and his overall conduct in the jail has been reported as satisfactory. Moreover, the petitioner neither has any previous criminal involvement, nor any punishment, major or minor, has ever been awarded to him inside the jail. Furthermore, the petitioner has submitted that upon release on parole, he intends to reside in the State of Bihar. Accordingly, there exists no reasonable apprehension or likelihood of the petitioner making any contact with, or approaching, the prosecutrix.

17. Considering the above, the present petition is allowed and the petitioner is directed to be released on parole for a period of eight weeks, on the following conditions:

- a. The petitioner shall furnish a personal bond in the sum of ₹10,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent;
- b. The petitioner shall submit his fresh residential address, where he shall be residing after his release, to the concerned Jail Superintendent, and shall not change the same without informing the concerned Jail Superintendent;
- c. The Jail Superintendent shall release the petitioner after verification of the address;
- d. The petitioner shall report to the SHO of the local area, once a week on every Sunday at 10:00 AM and shall not leave the territory of Bihar during the period of parole;
- e. The petitioner shall not, in any manner whatsoever,



make any attempt to contact, communicate with, visit, or approach the prosecutrix, either personally or through any other person.

f. The petitioner shall also refrain from any act that may cause harassment, intimidation, or undue influence upon the prosecutrix or her family members;

g. The petitioner shall furnish his mobile number to the Jail Superintendent as well as to the SHO of the concerned Police Station on which he can be contacted if required. The said mobile number shall be kept active and operational at all times by the petitioner;

h. The petitioner shall not indulge in any criminal activity during the period of parole;

i. Immediately upon the expiry of period of parole, the petitioner shall surrender before the concerned Jail Superintendent;

j. During this period, co-accused, if any, shall not be released on parole;

k. The period of parole shall commence from the date of actual release of petitioner.

18. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

NOVEMBER 12, 2025/KDK'