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

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Reserved on: 11.01.2024
Pronounced on: 12.01.2024

+ **W.P. (CRL) 2998/2023**

RAVI KAPOOR

..... Petitioner

Through: Ms. Dimple Vivek, Advocate

versus

STATE-NCT OF DELHI

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel for the State along with Mr. Abhinav Kumar, Mr. Priyam Agarwal and Mr. Shivesh Kaushik, Advocates and with Inspector Deepchand, P.S. Vasant Vihar.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. Ravi Kapoor, who is currently serving his life sentence, has approached this Court seeking parole for a period of four weeks since he continues to remain in jail for more than 14 years.



2. By way of this petition filed under Article 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the petitioner Ravi Kapoor seek parole on the ground of maintaining social ties with his family and for undergoing a knee surgery.

3. Records reveal that petitioner is currently confined in Central Jail No. 15, Mandoli, Delhi, in a case arising out of FIR No. 69/2009, registered at Police Station Vasant Vihar, in which he was convicted *vide* judgment dated 14.07.2016, and *vide* order dated 22.08.2016, he was sentenced to death for offence under Section 302 of Indian Penal Code, 1860 (‘IPC’), rigorous imprisonment for life for offence under Section 364 and 394 of IPC, simple imprisonment for seven years for offence under Sections 201 and 468 of IPC, two years of simple imprisonment for offence under Section 471 of IPC, and one year of simple imprisonment for offence under Section 25 of Arms Act. By virtue of judgment dated 04.01.2018, this Court in *CRL.A.911/2016* had commuted the death sentence awarded to the petitioner under Section 302 of IPC to life imprisonment.

4. The present writ petition was filed in October, 2023, raising a grievance that the application seeking parole filed by the petitioner before the competent authority in July, 2023 had not been decided, despite lapse of more than two months and in view thereof, he had to first approach this Court by way of an earlier W.P. (CRL) 2515/2023 which was disposed of on the submissions made on behalf of State that the application filed by the petitioner before the competent



authority would be decided within a period of two weeks. However, it is the case of petitioner that since the competent authority had again failed to decide the application filed by the petitioner seeking parole, he was then compelled to approach this Court through the present writ petition.

5. At this juncture, it is important to note that during the pendency of the present writ petition, the parole application filed by the petitioner was decided by the competent authority *vide* order dated 05.10.2023 and the parole sought by the petitioner was rejected.

6. While praying for grant of parole for four weeks, learned counsel appearing on behalf of petitioner Ravi Kapoor argues that the petitioner has been in custody for 14 years and 9 months and during this period, he has never been released on bail or parole or furlough. It is submitted that the address of the petitioner already stands verified and there are no grounds to apprehend that the petitioner will abscond or jump parole if the same is granted to him. It is also stated that through the overall jail conduct of the petitioner is unsatisfactory due to several punishments awarded to him inside the jail, no punishment has been awarded to the petitioner after the year 2017. While relying upon a judgment dated 07.08.2023 passed by this Bench in case of *Sartaj v. State of NCT of Delhi 2023 SCC OnLine Del 4764*, the learned counsel contends that it is important for the mental well-being of a convict to be released on parole for maintaining social and family ties. Therefore, it is prayed that the present petition be allowed.



7. Learned Standing Counsel for the State vehemently opposes the present petition and argues that the competent authority has rightly rejected the application for parole filed by the petitioner herein, considering the seriousness of the offence committed by him as well as pendency of multiple cases against him. It is argued that during pendency of this writ petition before this Court, the petitioner was convicted in another case *inter alia* involving offence under Section 302 of IPC and MCOCA whereby he had brutally murdered a journalist. It is submitted that the petitioner is involved in as many as 16 other criminal cases of serious nature and he has been convicted in two cases pertaining to offence under Section 302 of IPC. It is also submitted that the petitioner was earlier granted parole by this Court in the year 2018, however, upon an appeal being filed by the State before the Hon'ble Apex Court, the order of this Court granting parole to the petitioner for filing of SLP was set aside. It is also stated that releasing the petitioner on parole would be a serious threat to the society, given his criminal history as well as previous conduct in the jail, and therefore, this petition ought to be dismissed.

8. This Court has heard arguments addressed by learned counsel for the petitioner as well as learned Standing Counsel for the State and has perused the material available on record.

9. In the present case, the parole application filed by the petitioner stands rejected *vide* order dated 05.10.2023, which reads as under:



- “1. As per police verification report received from DCP. District South West. Delhi, it is stated that the parole to said convict may not be granted as the convict is involved in a heinous crime
2. The overall jail conduct of said convict is reported to be unsatisfactory. The above said convict was involved in multiple punishments previously
3. The above said convict is also involved in another two cases of murder and cheating which are pending against him.
4. Further, the Superintendent Jail No.15 has also not recommended grant of parole to the above said convict.”

10. Though the nominal role reflects that the jail conduct of the petitioner since the year 2017 has remained satisfactory, it is crucial to note that between the period 2010 to 2017, the petitioner herein had been awarded 41 major punishments in respect of different categories of offences committed by the petitioner within the jail premises.

11. The status report file on record as well as the previous conviction involvement report available with SCRB Delhi, the petitioner herein has been involved in 20 other criminal cases including cases pertaining to commission of offences of murder robbery, theft as well as offences under Arms Act, etc. It is most crucial to note that the petitioner herein, as on date, stands convicted in two cases involving offence under Section 302 of IPC, for which he has been awarded rigorous imprisonment for life. The most recent conviction out of these cases pertains to case FIR No. 481/2008, registered at P.S. Vasant Kunj South wherein the petitioner has been convicted *inter alia* for offences under 302 of IPC as well as



MCOCA, *vide* judgment dated 18.10.2023 by the learned Trial Court, in a case where the petitioner along with co-accused persons had shot and killed a journalist, in September, 2008, with the motive of committing robbery. The conviction of the petitioner in present case relates to case FIR No. 69/2009 registered at P.S. Vasant Vihar in which he along with co-accused persons had again in March, 2009, abducted one woman in a car and thereafter, they had robbed her off her belongings and had smothered her to death and then dumped her body in bushes near Surajkund, Faridabad.

12. There is no denying the fact that the Hon'ble Apex Court as well as this Court have time and again emphasized the need to respect the rights of the convicts and the need to acknowledge the importance of being released on parole for several purposes, including for maintaining social and family. However, at the same time, the Courts are also bound to consider the counterbalancing public interest while deciding the issue of grant of parole, in the given facts and circumstances of a case.

13. In case of *Asfaq v. State of Rajasthan (2017) 15 SCC 55*, the Hon'ble Apex Court had emphasized the need to maintain such a balance and had also underscored the importance of ensuring that habitual offenders who may demonstrate a propensity to commit offences after being released on parole or those who pose a potential threat to the law and order of society, may not be released on parole. It was also expressed that kindness towards convicts must not result



in cruelty towards the society. In this regard, it is crucial to take note of the observations of the Hon'ble Apex Court, which read has under:

“19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, **other competing public interest has also to be kept in mind** while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that **those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become threat to the law and order of the society, should not be released on parole.**This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that **great number of crimes are committed by the offenders who have been put back in the street after conviction.** Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.

20. Thus, not all people in prison are appropriate for grant of furlough or parole. **Obviously, society must isolate those who show patterns of preying upon victims.** Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that aspire to live as law-abiding citizens. Thus, parole program should be used as a tool to shape such adjustments.

21. To sum up, in introducing penal reforms, the State that runs the administration on behalf of the society and for the benefit of the society at large cannot be unmindful of safeguarding the legitimate rights of the citizens in regard to their security in the matters of life and liberty. It is for this reason that in introducing such reforms, the **authorities cannot be oblivious of the obligation to the society to render it immune from those who are prone to criminal tendencies and have proved their susceptibility to indulge**



in criminal activities by being found guilty (by a Court) of having perpetrated a criminal act. One of the discernible purposes of imposing the penalty of imprisonment is to render the society immune from the criminal for a specified period. It is, therefore, understandable that **while meting out humane treatment to the convicts, care has to be taken to ensure that kindness to the convicts does not result in cruelty to the society.** Naturally enough, the authorities would be anxious to ensure that the convict who is released on furlough does not seize the opportunity to commit another crime when he is at large for the time-being under the furlough leave granted to him by way of a measure of penal reform.

22. Another vital aspect that needs to be discussed is as to whether there can be any presumption that a person who is convicted of serious or heinous crime is to be, ipso facto, treated as a hardened criminal. **Hardened criminal would be a person for whom it has become a habit or way of life and such a person would necessarily tend to commit crimes again and again.** Obviously, if a person has committed a serious offence for which he is convicted, but at the same time it is also found that it is the only crime he has committed, he cannot be categorised as a hardened criminal. In his case consideration should be as to whether he is showing the signs to reform himself and become a good citizen or there are circumstances which would indicate that he has a tendency to commit the crime again or that he would be a threat to the society. Mere nature of the offence committed by him should not be a factor to deny the parole outrightly. Wherever a person convicted has suffered incarceration for a long time, he can be granted temporary parole, irrespective of the nature of offence for which he was sentenced. **We may hasten to put a rider here, viz. in those cases where a person has been convicted for committing a serious offence, the competent authority, while examining such cases, can be well advised to have stricter standards in mind while judging their cases on the parameters of good conduct, habitual offender or while judging whether he could be considered highly dangerous or prejudicial to the public peace and tranquillity etc..."**



14. The parole in this case has not been sought on grounds of any exigency in the family of petitioner but for the purpose of maintaining social and family ties. Though one of the grounds mentioned in the petition for seeking parole also relates to undergoing a knee surgery, neither any document or material in support of same has been placed on record, nor any arguments in this regard were addressed before this Court.

15. When this Court examines the factual matrix of the present case, on the touchstone of the aforesaid principles laid down and observations made by the Hon'ble Apex Court, this Court notes that the petitioner herein is a habitual offender, who has been involved in about 20 criminal cases between the period 2002 to 2010, and has been convicted in two cases involving commission of offences such as murder and robbery, and the most recent conviction being in October, 2023. Though his conduct inside jail remains satisfactory for last few years, the overall jail conduct has been unsatisfactory owing to as many as 41 major punishments being awarded to him.

16. Taking into account the criminal history of the petitioner, the facts of the case in which the petitioner has been convicted and the gravity of the offence committed by him, his overall conduct inside the jail premises, this Court is not inclined to grant parole to the petitioner, at this stage.

17. Accordingly, the present petition stands dismissed.

18. It is, however, clarified that observations made hereinabove shall not influence the outcome of any future application seeking



parole or furlough moved by the petitioner before competent authorities.

19. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 12, 2024/zp