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

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Reserved on: 16.02.2024
Pronounced on: 20.02.2024

+ **W.P.(CRL) 340/2024**

VIJAY DAHIYA

..... Petitioner

Through: Ms. Neha Kapoor and Mr.
Kaushal Mehta, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rahul Tyagi, ASC for
State with SI Sukhvinder, P.S.
Crime Branch

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

CRL M.A. 4474/2024 (for directions)

1. The instant application under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of petitioner seeking directions against the respondent.
2. By way of above-captioned writ petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the petitioner had sought issuance of writ in the nature of mandamus



directing respondent to release the petitioner on parole for a period of one month.

3. The petitioner is presently confined in Central Jail No. 03, Tihar, New Delhi. By virtue of judgment dated 09.02.2018, the petitioner was convicted under Sections 302/120B/34 of Indian Penal Code, 1860 ('IPC') in case arising out of FIR bearing no. 862/2016, registered at Police Station, Shahbad Diary, Delhi and was sentenced to undergo imprisonment for life by the learned Trial Court. His appeal against conviction i.e., CRL.A. 391/2018 was dismissed by this Court *vide* judgment dated 26.06.2023.

4. Learned counsel for the petitioner states that despite there being two orders dated 31.01.2024 and 12.02.2024 passed by this Court directing the respondents to treat this petition as a representation and decide it on merits, the respondent has yet not decided the parole application of the petitioner. It is argued that petitioner is required to take his child to the examination center, since his child has to appear for his board examinations starting from 21.02.2024 to 13.03.2024 and considering the urgency of the matter, the present petition be decided and parole be granted to the petitioner for a period of one month, as prayed for.

5. Learned ASC appearing on behalf of the State submits that the application filed by the petitioner is pending before the competent authority. It is stated that his application for parole is being treated with priority, however, considering the urgency in this case, this Court may pass an appropriate order disposing of this petition.



6. This Court has heard arguments addressed by both the parties, and has gone through the material placed on record.

7. In the present case, *vide* order dated 31.01.2024, this Court had directed the competent authority to decide the application for grant of parole to the petitioner within a period of one week, and the present writ petition was disposed of. Relevant portion of order reads as under:

“6. In view of the submissions made before this Court, this Court is of the opinion that the competent authority will treat the petition as a representation and accordingly pass an order for grant of parole by the petitioner within one week, under intimation to the petitioner.

8. Thereafter, again *vide* order dated 12.02.2024, direction was issued to the respondent to decide the application filed by the petitioner within a period of three days. However, till date, the petitioner’s application for parole, preferred before the respondent/competent authority has not been decided.

9. Learned counsel for the petitioner has argued that the petitioner’s son has to appear for his CBSE Board Examinations, starting from 21.02.2024 to 13.03.2024, and the petitioner is required to physically take his child to the examination centre, since the wife of petitioner has another minor child to look after and she will not be in a position to travel each time for dropping their son for the examination purpose and bringing him back.

10. This Court, after careful consideration of the facts and circumstances, is of the opinion that presence of the petitioner to accompany his son for his Board examinations is both reasonable and



in the best interest of the child's welfare. Considering the importance of parental involvement in a child's education, it is important to facilitate such opportunities, particularly in circumstances where the father demonstrates a commitment to his parental responsibilities, and where the other parent i.e. the petitioner's wife may not be in a position to accompany the son to examination centre.

11. While dealing with issues such as present one, this Court must balance the competing interests of State as well as the inherent responsibility of parents towards their children as well as their academic pursuits. Considering the aforesaid facts and circumstances, and also the fact that the petitioner has been granted interim bail and furlough previously and that he had never misused the liberty granted to him, this Court is inclined to grant parole to the petitioner for a period of one month from the date of his release on the following conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs.5,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent.
- ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM during the period of parole.
- iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of local police station, on which he can be contacted if required. The said telephone number shall be kept active and operational at all



the times by the petitioner.

iv. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.

v. The period of parole be counted from the day when the petitioner is released from jail.

12. In above terms, the present application is disposed of.

13. A copy of this order be sent by the Registry to the Jail Superintendent concerned forthwith.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBURARY 20, 2024/zp