
(2016) 08 DEL CK 0013
In the Delhi High Court
Case No : W.P.(CRL) No. 2493 of 2016

Ashish @ Danger

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 26-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 JCC 2237

Hon'ble Judges : Mr. Vipin Sanghi, J.

Bench : Single Bench

Advocate : Mr. Sumeet Verma and Mr. Abhijeet Sharma, Advocates, for the Petitioner; Ms. Nandita Rao, ASC and Ms. Srilina Roy, Advocate along with SI Vipin Yadav, PS Kotwali, Advocates, for the State

Final Decision : Disposed Off

Judgement

Mr. Vipin Sanghi, J.—Issue notice. Ms. Rao accepts notice.

2. This petition has been preferred by the petitioner to seek modification of the order dated 12.04.2016, whereby the petitioner's release on parole has been ordered, however, subject to condition that the co-accused, who is on parole and who has jumped parole, should first surrender. The petitioner also seeks a mandamus to direct respondent to release the petitioner on parole.

3. The nominal roll of the petitioner shows that the petitioner is undergoing sentence of life imprisonment under Section 302 IPC in case FIR No.41/2008 registered at Police Station - Chandni Chowk. The petitioner has already undergone 8 years, 4 months and 26 days incarceration as on 10.08.2016. He has also earned remission of 1 year, 9 months and 21 days. He has been granted parole/ furlough on several occasions; lastly between 03.06.2015 and 03.07.2015. His jail conduct is reported to be satisfactory. While dealing with his application seeking parole vide impugned order dated 12.04.2016, the following condition has been imposed:

"7. The convict may be released only after the surrender of any of the other co-accused, who is on parole, if any."

4. The submission of learned counsel for the petitioner is that the petitioner cannot be held responsible if the co-convict has jumped parole. The petitioner has no control over him. Learned counsel for the petitioner has also sought to place reliance on an order dated 14.09.2015 passed in W.P. (Crl.) No. 1505/2015 titled Mukesh v. State, wherein a similar condition has been imposed and this Court modified the same.

5. The petitioner cannot be made to suffer on account of the conduct of the co-convict. He has no control over the co-convict. The condition contained in paragraph 7 is unreasonable and cannot be insisted upon. The same stands deleted. The petitioner is directed to be released as per the order dated 12.04.2016 without insisting on compliance of condition contained in paragraph 7 thereof.

6. The petition stands disposed of.