

(2010) 11 DEL CK 0282

In the Delhi High Court

Case No : Writ Petition (Criminal) 1390 of 2010

Chand Miyan

APPELLANT

Vs

State of Nct of Delhi

RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 302, 324, 34

Citation : (2010) 11 DEL CK 0282

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Rakhi Dubey, for the Appellant; Akshay Bipin, ASC, for the Respondent

Final Decision : Allowed

Judgement

Hima Kohli, J.—The present writ petition is filed by the Petitioner under Article 226 of the Constitution of India read with Section 482 of the Cr.PC praying inter alia for quashing of the order dated 09.08.2010 passed by the Govt. of NCT of Delhi, rejecting the application of the Petitioner for grant of parole and seeking parole for a period of three months to engage a counsel for drafting and filing a SLP in the Supreme Court against the judgment dated 29.04.2010 passed by the High Court in Crl. Appeal No. 1023/2008 arising out of FIR No. 52/2004 under Sections 302/324/34 IPC.

2. The application of the Petitioner for grant of parole was rejected on the ground of adverse police report and in view of the fact that the Petitioner was convicted in 03 cases, acquitted in 02 cases, undergone sentence in 01 case and is pending trial in 01 case.

3. The nominal roll of the Petitioner was called for. As per the said nominal roll, against a quantum of sentence of life imprisonment and a fine of Rs. 10,000/- in default, simple imprisonment for 3 months, the Petitioner has undergone a

sentence of six years, eight months and eleven days as on 08.11.2010, and earned remission for one year, two months and six days. His jail conduct for the past one year is stated to be satisfactory.

4. A status report is filed by the Joint Secretary (Home), Govt. of NCT of Delhi. As per the status report, the verification of the application was carried out by the SHO of the area. The residential address of the Petitioner was found to be correct. It is confirmed that the brother of the Petitioner was residing at the given address as a tenant. According to the enquiry at the given address, the Petitioner has relations with his brothers and relatives, and he has no enmity in the colony. It is however stated that the Petitioner is a bad character of Bundle-A, at P.S. Krishna Nagar and he is involved in 06 more cases, apart from the case in hand.

5. As per the status report filed by the Superintendent, Tihar Jail, New Delhi, the Petitioner has been acquitted in 02 cases pertaining to FIR Case Nos. 174/96 and 377/98 and he has been convicted in 03 cases. In FIR case No. 29/2000, he was sentenced to undergo rigorous punishment for 02 months. In FIR case No. 309/2000, he was convicted and released on probation for 06 months. In FIR case No. 235/2003, he was convicted for the period already undergone by him.

6. In view of the fact that parole is sought by the Petitioner for filing of SLP against the judgment of the High Court in Crl. Appeal No. 1023/2008, the present petition is allowed. The Petitioner is granted parole for a period of one month, subject to the following conditions:

(i) The Petitioner shall furnish a personal bond in the sum of Rs. 20,000/- with one local surety of the like amount, who shall be a member of his family, to the satisfaction of the trial court.

(ii) The Petitioner shall report to the SHO of Police Station: Timar Pur, once a week on every Sunday at 10:00 AM and shall not leave the National Capital Territory of Delhi during the period of parole.

(iii) The Petitioner shall furnish a telephone number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also inform his telephone number to the SHO of the police station concerned.

(iv) Immediately upon the expiry of period of parole, the Petitioner shall surrender himself before the Jail Superintendent.

(v) The Petitioner shall furnish a copy of the SLP filed in the Supreme Court to the Superintendent Jail at the time of surrendering.

(vi) The period of parole shall be counted from the day after the date when the Petitioner is released from jail.

7. The petition is disposed of.