
(2010) 12 DEL CK 0022

In the Delhi High Court

Case No : Writ Petition (Criminal) 1374 of 2010

Chander Prakash

APPELLANT

Vs

The State of NCT of Delhi

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 201, 302, 325, 34

Citation : (2010) 12 DEL CK 0022

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : V.P.S. Charak, for the Appellant; Sanjeev Bhandari, 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 Code of Criminal Procedure praying inter alia for grant of parole for a period of 3 months to engage competent counsel for filing a SLP before the Hon"ble Supreme Court of India, against the judgment dated 15.04.2010 passed by the High Court, dismissing Criminal Appeal No. 542/2008 and for maintaining social relations with his family members. The Petitioner has been sentenced to undergo rigorous imprisonment for life by the Learned ASJ in FIR No. 859/2004 registered at PS Sangam Vihar, under Sections 302/201/34 IPC.

2. The Counsel for the Petitioner states that the order dated 03.08.2010 passed by the Govt. of NCT of Delhi, rejecting the application of the Petitioner for grant of parole may be set aside. A perusal of the order of rejection shows that parole has been denied on the grounds that the Petitioner was punished for committing jail offence on 06.11.2001, 07.11.2001, 30.05.2008 and hence the Petitioner was not eligible to apply to Govt. of NCT of Delhi for grant of parole in terms of

Para No. 11.2 of Parole/ Furlough Guidelines 2010.

3. The nominal roll of the Petitioner was called for. As per the said nominal roll, against a quantum of sentence of rigorous imprisonment for life and a fine of Rs. 2,000/- in default thereof, rigorous imprisonment for two years, the Petitioner has already undergone a sentence of five years, nine months and four days as on 23.09.2010 and earned remission for one month and four days. His jail conduct for the past one year is stated to be satisfactory.

4. A status report is filed by the SHO of the area, which shows that verification of the application of the Petitioner was carried out by the police authorities. The residential address of the Petitioner at Sangam Vihar, New Delhi is found to be correct. At this address, Petitioner's mother and his two brothers reside. On enquiry, it was found that the Petitioner was also involved in Case FIR No. 362/04 P.S. Sangam Vihar u/s 325/34 IPC and presently the case is pending trial.

5. As per the status report filed by the Superintendent, Tihar Jail, New Delhi, the Petitioner had availed interim bails from 18.11.2009 to 02.12.2009 and from 06.02.2010 to 12.02.2010 granted by this Court. It is also stated in this report that the Petitioner had committed jail offences on various dates and punished accordingly and also that his application for grant for parole was rejected in terms of para No. 11.2 of Parole / Furlough Guidelines 2010 which state that conduct of the convict must have been uniformly good.

6. The learned ASC for the State has opposed the grant of parole to the Petitioner on the ground that both the brothers of the Petitioner are financially capable to file the SLP and can arrange necessary finance for litigation and also that all the brothers and sisters are married, so the Petitioner bears no family liabilities. He further submits that the family has no control over him and therefore, there are possibilities that the Petitioner may jump the parole. Refuting these arguments, the counsel for the Petitioner states that the Petitioner had availed interim bail on two occasions in the year 2009 & 2010 as also mentioned in the nominal roll and that on both occasions the Petitioner had duly surrendered to the jail authorities and not abused the indulgence granted to him.

7. The ground taken by the Petitioner for grant of parole in the present petition is filing of SLP against the judgment of the High Court in Crl. Appeal No. 542/2008. The right of a citizen to effectively pursue his legal remedy in the last court of justice in the country by filing a SLP is a valuable right. The Petitioner cannot be denied parole in such a case, particularly, since his jail conduct in the past one year is stated to be satisfactory.

8. In this view of the matter, the present petition is allowed. The Petitioner is granted parole for a period of four weeks, subject to the following conditions:

(i) The Petitioner shall furnish a personal bond in the sum of Rs. 20,000/- with surety of the like amount by his elder brother, Harish Chand, to the satisfaction of the trial court.

(ii) The Petitioner shall report to the local SHO of area, 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.

9. The petition is disposed off.

A copy of this order be forwarded to the Jail Superintendent forthwith.