
(2010) 01 DEL CK 0148

In the Delhi High Court

Case No : Writ Petition (Criminal) No. 1614 of 2009

Rajender Singh

APPELLANT

Vs

State of NCT of Delhi

RESPONDENT

Date of Decision : 07-01-2010

Acts Referred:

Citation : (2010) 01 DEL CK 0148

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : V. Madhukar, Ad, for the Appellant; Akshay Bipin, APP., for the Respondent

Judgement

V.K. Jain, J.—This is a petition for grant of parole. The petitioner was convicted on 28.9.1998 in the case registered vide FIR No. 337/89 registered at Police Station Rajouri Garden under Sections 302/307/394/398/34 of IPC and u/s 27 of Arms Act. The petitioner applied to the respondent for grant of parole for three months in order to meet his mother, who was stated to be bedridden and to re-establish social ties with his family. The request of the petitioner was rejected vide order dated 19.12.2007.

2. The petitioner again sought parole for eight weeks to perform last rituals/death anniversary of his mother who had in the meantime expired on 13.1.2008. The request was sent vide dispatch No. 8148 dated 9.9.2009 and has since been rejected.

3. A perusal of the order dated 12.11.2009 passed by the respondent thereby rejecting the request of the petitioner for grant of parole, coupled with the status report would show that parole has been rejected on the following grounds:

(i) Adverse police report from law and order point of view stating that convict is a desperate criminal and his other cases are also pending for trial and he may harm the witnesses.

(ii) There are two other cases pending against the convict.

4. Grant of parole being an executive function, it is for the Government and not for the Court to consider such a request and take appropriate decision on it. If, however, it is shown that the order passed by the Government is based upon extraneous considerations or on the grounds which are not relevant, it is open to the Court, in appropriate cases, to interfere in exercise of its powers under Article 226 of the Constitution and direct grant of parole to a convict.

5. It has been stated in para 7 of the petition that the mother of the petitioner expired on 13.1.2008. The death anniversary of the mother, therefore, was on 13.1.2009 whereas the petitioner applied for parole only on 9.9.2009. Had he been genuinely interested in performing the Death Anniversary of his mother, he would have applied for parole, prior to and not eight months after the Anniversary. Therefore, it cannot be said that the request of the petitioner for grant of parole in order to perform some rituals on the death anniversary of his mother is genuine.

6. The petitioner does not have an immediate family of his own. He has five brothers, out of whom one is in jail and remaining are residing at different places with their respective families. Therefore, it cannot be said that the petitioner needs to re-unite with his own family and needs to maintain his emotional and family bonds with them. It has, also been stated in the petition that the petitioner needs to repair his house which is in a dilapidated condition. A perusal of the status report would show that the petitioner does not own any house. Therefore, there is no question of parole being granted to him for the purpose of re-construction or repair of his house.

7. If a convict seeks parole on false ground, it would not be unjustified to infer that his need to come out on parole is not bona fide and he does not intend to return to the jail on expiry of parole.

8. A perusal of the nominal roll of the petitioner would show that he has been convicted in three other cases, out of which one was a case of murder, the second was a case of attempted murder with robbery and the third was a case of robbery. He is also facing trial in two cases; one for armed robbery in Amritsar and the other under Arms Act at Rohtak.

9. In these circumstances, the apprehension of the respondent that if released on parole, the petitioner may jump the parole and may not come back to the jail to serve the unexpired portion of sentence awarded to him cannot be said to be unfounded. The anxiety of the respondent to ensure that the petitioner does not jump the parole needs to be appreciated wherever it is justified in the facts and circumstances of the case. Considering the false ground taken by the petitioner for seeking parole, coupled with the number and nature of the cases in which he has been involved, there is a genuine apprehension of the petitioner jumping the parole and not returning the jail. If parole is declined in these circumstances it cannot be said that the order denying parole is based on irrelevant consideration

or is otherwise not sustainable in law. I, therefore, find no ground to interfere with the order dated 12.11.2009, whereby parole was denied to the petitioner. W.P. (Crl) 1614/2009 stands disposed of.