
(2010) 11 DEL CK 0005

In the Delhi High Court

Case No : Writ Petition (Criminal) 1110 of 2010

Sudhir @ Sonu

APPELLANT

Vs

State of Nct of Delhi

RESPONDENT

Date of Decision : 18-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 302, 34, 394

Citation : (2010) 11 DEL CK 0005

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Simon Benjamin, 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 Cr.P.C praying inter alia for grant of parole for a period of 3 months for the purpose of filing a SLP before the Hon'ble Supreme Court of India, against the judgment dated 03.05.2010 passed by the High Court, dismissing Criminal Appeal No. 258/2008 and for maintaining social ties with his family members and society. The Petitioner has been sentenced to rigorous imprisonment for life by the Learned ASJ in FIR No. 272/2003 registered at PS Dariya Ganj, under Sections 302/394/34 IPC.

2. The Counsel for the Petitioner states that the parole application of the Petitioner was not entertained by the Govt. of NCT of Delhi and the same was returned without passing a written or speaking order, as the Petitioner was found ineligible for parole according to Para No. 11.2 of the new guidelines issued by the Govt. of NCT of Delhi, under which it is required that the conduct in prison, of the applicant seeking parole, must have been uniformly good.

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. 5,000/- in default thereof, rigorous imprisonment for 5 months, the Petitioner has already undergone a sentence of six years, eleven months and twenty days as on 21.08.2010 and earned remission for four months and twenty five days. His jail conduct for the past one year is stated to be satisfactory. The Petitioner was also granted interim bail for two months, from 24.09.2009 to 23.11.2009 and there is no report of any misconduct during that period.

4. A status report is filed by the Superintendent of Prisons, Tihar Jail, which states that the conduct of the Petitioner has been unsatisfactory in the last three years as he was punished on 21.03.2009 for attacking High Risk prisoners. It further states that the parole application of the Petitioner was rejected by the Govt. of NCT of Delhi as the Petitioner would be eligible for parole only after three years from his punishment. Another status report was filed by the Inspector (Investigation) of the concerned PS, which shows that verification of the application of the Petitioner was carried out by the police authorities. On a perusal of the status report, it is found that the family of the Petitioner consisting of his parents and a younger brother and sister are residing at the residential address of the Petitioner at New Seelam Pur, which is the address provided by the Petitioner in the writ petition. It is stated that the father and the brother of the Petitioner earn handsome amounts and are therefore capable of arranging for a private counsel for drafting and filing the SLP before the Supreme Court. The status report further states that the Petitioner has been involved in four other criminal cases other than the one arising from FIR No. 272/2003, subject matter of present petition, out of which Petitioner has been convicted in 01 case, acquitted in 01 case, undergone sentence in 01 case and has compromised 01 case.

5. 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. 258/2008. The desire of the Petitioner to prepare his case, to his utmost satisfaction, so that he may be able to effectively pursue his legal remedy in the last court of appeal in the country, cannot be treated lightly. The Petitioner ought not to be denied parole for filing a SLP, particularly, since his jail conduct for the last one year is stated to be satisfactory and there is no pending case against him.

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

(i) The Petitioner shall furnish a personal bond in the sum of Rs. 10,000/- with one local surety of the like amount, to the satisfaction of the trial court.

(ii) The Petitioner shall report to the SHO of Police Station: Gokul Puri, 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 off.

A copy of this order be sent directly to the Superintendent Jail.