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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1276/2023**

OM PRAKASH

..... Petitioner

Through: Mr.Faraz Maqbool, Advocate
(DHCLSC) with Ms.Vismita Dian,
Mr.Chandan Kumar and Ms.Sana
Juneja, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Nandita Rao, ASC (CrI.) with
Mr.Amit Peswani, Adv. for the State
with Inspector Shiv Prakash, PS Patel
Nagar.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
% **19.05.2023**

CRL.M.A. 12010/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. By way of present petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the petitioner seeks issuance of writ of mandamus or any other appropriate writ directing the respondent/State to release the petitioner on parole for a period of 08 weeks for his medical treatment.



4. In brief, the case of petitioner is that he was convicted *vide* judgment dated 27.07.1998 under Section 302 of the Indian Penal Code, 1860 ('IPC') and Section 27 of the Arms Act, 1959, in case arising out of FIR bearing no. 904/15, registered at Police Station Patel Nagar, New Delhi. By virtue of order on sentence dated 28.07.1998, he was sentenced to undergo life imprisonment for offence punishable under Section 302 of IPC rigorous imprisonment for a period of seven years for offence punishable under Section 27 of the Arms Act.

5. Learned counsel for the petitioner states that the petitioner is 74 years of age and is suffering from several medical issues including severe asthma, type- II respiratory failure, chronic obstructive lung disease, arthritis, kidney issues, bed sore from continuous lying on the bed. It is further submitted that the petitioner is completely bed-ridden and wheelchair bound. It is stated that in April, 2020 and May, 2021, the petitioner was released from jail on parole on the basis of HPC guidelines of this Court and he was receiving treatments for the aforesaid ailments. However, pursuant to directions of Hon'ble Supreme Court *vide* order dated 24.03.2023 in SMWP(C) No. 01/2020 titled *In Re Contagion of Covid 19 virus in prison*, all the convicts surrendered before the concerned jail authorities. Since then, the petitioner has been deprived of a biopap which has resulted in a significant worsening of his medical condition.

6. Learned ASC for the State submits that the medical condition of the petitioner has been verified and the State does not dispute the authenticity of the medical documents.

7. This Court has heard the parties and perused the material on record.

8. The present petitioner has remained in judicial custody for about 12



years and 08 months, excluding remission of 1 year and 05 months. As per Nominal Roll on record, the petitioner had also been granted furlough and parole on about 20 occasions and he had not misused the said liberty. This Court after going through the medical status of the present petitioner, which has not been disputed by the State, and considering the age and delicate medical condition he is in at present, is inclined to grant parole to the petitioner for a period of 08 weeks, subject to the following conditions:

- a. The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- one surety of the like amount, to the satisfaction of the Jail Superintendent.
 - b. During the period of parole, the petitioner shall inform the Jail Superintendent about the details of his address in Delhi where he shall ordinarily reside during the period of parole.
 - c. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent on which he can be contacted, if required. Such telephone/mobile number shall be kept switched-on and operational at all times.
 - d. If petitioner has a passport, he shall also surrender the same to the Jail Superintendent
 - e. The petitioner shall not indulge in any criminal or illegal activities during the period of parole.
 - f. Immediately upon the expiry of the period of parole, the petitioner shall surrender before the Jail Superintendent.
 - g. The period of parole shall be counted from the day when the petitioner is released from jail.
9. In above terms, the present writ petition stands disposed of.



10. A copy of this order be forwarded to the concerned Jail Superintendent for information.
11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J.

MAY 19, 2023/kss

Click here to check corrigendum, if any