

Mahipal @ Lala vs State Nct Of Delhi on 10 February, 2022

Author: Mukta Gupta

Bench: Mukta Gupta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (CRL) 2222/2021

MAHIPAL @ LALA

Represented by: Mr.Sunil Upadhaya,

versus

STATE NCT OF DELHI

Represented by: Ms.Kamna Vohra, Ad

Standing Counsel f

Asha Dalal, PS Sha

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% 10.02.2022 The hearing has been conducted through Video Conferencing.

1. By this petition, petitioner seeks grant of first spell of furlough in FIR No.881/2014 under Sections 323/376/506 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act'), PS S.B.Dairy.

2. The petitioner was convicted for offences punishable under Sections 6 POCSO Act and 506 IPC and awarded sentence of imprisonment for a period of twenty years.

3. As per the status report filed the petitioner has served seven years and three months imprisonment. It is also stated that though in terms of Rule 1225 of the Delhi Prison Rules, 2018 there is no strict prohibition on grant of furlough to the prisoners who have been convicted for offences of murder after rape, for offence under POCSO Act, dacoity with murder and murder after kidnapping for ransom etc. however, the Deputy Inspector General of Prisons has been directed to seek specific recommendations for considering the case as also the report of Social Welfare Officer and Probation Officer while deciding such application.

4. Thus in terms of Rule 1225 of the Delhi Prisons Rule when a prisoner convicted for offence punishable under the POCSO Act seeks furlough, the competent authority is required to take extra precaution and consider the reports received from the Probation Officer or the Social Welfare investigation report.

5. The petitioner has been convicted for committing penetrative sexual offence on the minor step-daughter of the petitioner, though the petitioner claims that he was not married to the mother

of the alleged victim. Further the inquiry from the elder brother of the petitioner has also been conducted as per which the parents of the petitioner and one of his other brothers namely Ramesh Kumar has since passed away. The petitioner's elder brothers Harender Kumar and Narender Kumar are residing in Mangol Puri and two sisters are married who are also residing in Sangam Vihar, Delhi. Further they claim that the petitioner has no permanent residence at Delhi or Aligarh.

6. Learned counsel for the petitioner states that the FIR has been lodged by the woman with whom the petitioner was in a live in relationship however, the petitioner's wife and children are residing in Village Barauli, Janpad Aligarh, Gabana, U.P.

7. A verification has been conducted from the wife of the petitioner who is residing along with the minor children at her parental home and states that her husband has already sold the house.

8. Considering the verification report, this Court finds no error in the order rejecting the application of the petitioner seeking furlough to the petitioner.

9. Petition is dismissed.

10. Copy of the order be communicated to the petitioner through Superintendent, Tihar Jail and be uploaded on the website of this Court.

MUKTA GUPTA, J.

FEBRUARY 10, 2022 'vn'