

Ghanshyam @ Javed S/O Late Kishan Lal vs State Nct Of Delhi on 1 April, 2024

Author: Swarana Kanta Sharma

Bench: Swarana Kanta Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 489/2024

GHANSHYAM @ JAVED S/O LATE KISHAN LAL ..

Through: Mr. Shannu Baghel, M

Verma & Mr. Uwais,

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STATE NCT OF DELHI

Through:

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

OR

% 01.04.2024

1. The present writ petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973 („Cr.P.C.) has been filed on behalf of the petitioner seeking grant of parole for a period of 04 weeks in case arising out of FIR bearing No. 07/2001, registered at Police Station Civil Lines, Delhi for offences punishable under Sections 302/186/353/332/34 of the Indian Penal Code, 1860 („IPC) and Sections 25/27 of the Arms Act, 1959 and in case arising out of FIR bearing No. 318/2000 registered at Police Station Roop Nagar, Delhi for offences punishable under Sections 379/411/420/468/34 of IPC on the ground for re- establishing social and family ties, and for medical treatment of his old and ailing mother.

2. The petitioner is presently confined in Central Jail No. 14, Mandoli, Delhi. By virtue of judgment dated 30.07.2005, the petitioner was convicted This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 04/04/2024 at 00:12:41 under Sections 302/186/353/332/34 of IPC and Sections 25/27 of the Arms Act, 1959 in case arising out of FIR bearing no. 07/2001, registered at Police Station, Civil Lines, Delhi and was sentenced to undergo imprisonment for life by the learned Additional Sessions Judge, Delhi. His appeal against conviction i.e., CRL.A. 885/2005 was dismissed by this Court vide judgment dated 26.06.2023. Thereafter, the petitioner had preferred an SLP bearing No. 21756/2010 against the order passed by this Court which was dismissed vide order dated 20.08.2010.

3. Learned Counsel appearing on behalf of the petitioner submits that the rejection order passed by the competent authority is without application of mind and is contrary to the fundamental tenets of law. It is submitted that the competent authority has rejected the application for parole on the grounds that the petitioner had received major punishment tickets on 20.01.2023, 24.01.2023 and 27.01.2023. However, in this regard it is submitted that the petitioner had been granted parole by this Court in W.P. (CRL) 2462/2021 vide order dated 01.05.2023 for a period of four weeks and that the petitioner was further granted extension of parole for a period of 10 days by this Court vide order dated 29.05.2023 in W.P. (CRL) 1578/2023 and the petitioner did not misuse the liberty granted to him vide the said orders. It is further submitted that the petitioner is seeking parole on the ground that he wants to re-establishing social and family ties, and for medical treatment of his old and ailing mother.

4. Per Contra, Learned ASC for the State opposes the present petition and submits that the rejection order passed by the competent authority is just, fair and in accordance with the law as the petitioner has been awarded major punishment tickets on 20.01.2023, 24.01.2023 and 27.01.2023 and This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 04/04/2024 at 00:12:41 that as per Rule 1210 sub-rule (II) of the Delhi Prison Rules, 2018, the conduct of the petitioner who has been awarded with a major punishment should be uniformly good for last two years from the date of application of grant of parole. It is further submitted that in the present case, the petitioner had received major punishments last year and has not completed the time period of two years as per Rule 1210 sub-rule (II) of the Delhi Prison Rules, 2018. Therefore, the petition be dismissed.

5. This Court has heard arguments on behalf of both the parties and has perused the material placed on record.

6. This Court has perused the rejection order passed by the competent authority and the same is reproduced as under:

"With reference to your office letter F.14/ SCJ- 14/AS(CT)/PAROLE/2024/22 dated 08.01.2024, on the subject cited above, I am to inform you that the request in respect of the above said convict for grant of parole has been considered and rejected by the Hon'ble Lt.Governor of Delhi in view of the following:-

1. The convict is not entitled for parole in view of Rule 1210 sub rule (I) of Delhi Prison Rules-2018, which states that:- Rule 1210 sub rule (I):- "The conduct of the Prisoner who has been awarded major punishment for any prison offence should have been uniformly good for last two years from the date of application and the conduct of Prisoner who has been awarded minor punishment or no punishment for any prison offence in prison should have been uniformly good for last one year from the date of application". In this case, as per nominal roll, punishments dated 20.01.2023, 24.01.2023 and 27.01.2023 awarded to the above said convicts are the

major punishment in view Rule 1271 of Delhi Prison Rules 2018.

2. Further, as per nominal roll, the last one year jail conduct and overall jail conduct of the convict is reported to be unsatisfactory. Superintendent Jail has also not recommended grant of parole to him.

This is a digitally signed order.

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The convict may be informed accordingly".

7. This Court notes that the competent authority has rejected the application for grant of parole of the petitioner herein on the grounds that he had been awarded with three major punishments in January, 2023 and was convicted in three other cases.

8. This Court notes that the petitioner herein had been granted parole by this Court in W.P. (CRL) 2462/2021 vide order dated 01.05.2023 for a period of four weeks and that the petitioner was further granted extension of parole for a period of 10 days by this Court vide order dated 29.05.2023 in W.P. (CRL) 1578/2023 and the petitioner did not misuse the liberty granted to him vide the said orders. The said parole was granted to the petitioner after he had received the said punishment tickets.

9. Thus, considering the aforesaid facts and circumstances, this Court is inclined to grant parole to the petitioner for a period of two (02) weeks on the following conditions: -

i. The petitioner shall furnish a personal bond in the sum of Rs. 5,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent concerned.

ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM and shall not. This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 04/04/2024 at 00:12:41 leave the National Capital Territory of Delhi during the period of parole.

iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.

iv. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.

v. The period of parole shall be counted from the day when the petitioner is released from jail.

10. With the above terms, the present writ petition is disposed of.

11. A copy of this order be sent by the Registry to the Jail Superintendent concerned.

12. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J APRIL 01, 2024/at [Click here to check corrigendum](#), if any This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 04/04/2024 at 00:12:41