

Mukesh @ Haddi vs The State GncT Of Delhi on 2 June, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 1039/2022
MUKESH @ HADDI Petitioner
Through: Mr.B.Badrinath, Advocate
versus
THE STATE GNCT OF DELHI Respo
Through: Mr.Rajesh Mahajan, ASC for State
with SI Sumit, Police Station Sa
Vihar
CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 02.06.2022 The petitioner vide the present petition has made the following prayers:

"a) Allow the present Writ in the nature of Certiorari quashing order No. F,18/21/2021/HG/941 dated 08,04.2022 passed by competent authority,

b) Issue a Writ of Mandamus directing the competent authority to release the petitioner Mukesh @ Haddi; S/o Suresh Chand Aged 31 years R/o House No, F- 616, JJ camp Tigri, P S Sangam Vihar, Delhi convicted in case FIR No.389/2010 P,S, Sangam Vihar 302/394/397/34 !PC & 25 Arms Ac, on parole for the period of two months,

c) Pass any other order or orders in the interest of justice."

The status report of the State dated 2.6.2022 under the signatures of the SHO has been submitted verifying the address of the petitioner indicating that his address is F-616, JJ Camp, Tigri, Delhi, where his two younger sisters and a brother reside.

The petitioner vide the present petition has sought the grant of two months' parole in order to maintain social ties and reconnect himself with family and friends as well as to file an SLP against the order of this Court in Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:03.06.2022 19:42:44 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Crl Appeal No. 395/2020 vide verdict dated 24.12.2020 whereby the appeal against the verdict dated 23.12.2019 in FIR No. 389/2010 under Sections 302/394/397/34 of the Indian Penal Code, 1860 read with Section 25 of the Arms Act, 1959 Police Station Sangam Vihar was disallowed with the sentence imposed to the effect:

"U/s 302 IPC - R.I. for life & Fine Rs. 10,000/- ID 01 months SI U/s 397 IPC - R.I. for 10 years U/s 394 IPC - R.I. 08 years & fine Rs.10,000/- ID 01 Months SI U/s 25 Arms Act - R.I. for 03 Years & Fine Rs.5,000/- ID 15 days SI (All the sentences shall run concurrently)", thus indicating that qua the offences punishable under Section 302 of the Indian Penal Code, 1860 the petitioner herein has been sentenced to rigorous imprisonment for life and fine of Rs.10,000/- and in default to one month's simple imprisonment.

The petitioner has further submitted through the petition that his prayer to the respondent seeking grant of parole was declined vide order No. F.18/21/2021HG/941 dated 08.04.2022 on the following grounds:

" With reference to your office letter No. F.3/SCJ- 3/AS(CT)/2022/439 dated 21.03.2022 on the above subject. I am directed to inform you that the request in respect of the convict for grant of parole has been considered and rejected by the Hon'ble Lt.Governor, Delhi in view of the followings:-

1. The above said convict may file SLP from jail itself where free legal aid facility is available to all prisoners,
2. The overall jail convict of the above said convict is reported to be unsatisfactory being multiple punishments. 3, The superintendent jail has not recommended grant of parole to the above said convict due to habitual offender and notorious jail conduct being 10 punishments.
4. As per police report received from DCP, district south, Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:03.06.2022 19:42:44 This file is digitally signed by PS to HMJ ANU MALHOTRA.

new Delhi, it is stated that said convict is a habitual offender and as per SCRB report(five cases are pending against him. He may jump parole. Police authority has strongly opposed the grant of parole to said convict."

It has been submitted by learned counsel for the petitioner that the petitioner needs the assistance of a private counsel apart from a counsel representing him at the Jail to file the SLP, that the overall jail conduct of the petitioner though recorded to be unsatisfactory qua monthly punishments, as imposed on the petitioner as per the annexure to the Nominal Roll indicate that the last punishment imposed on the petitioner was qua an offence of the date 14.11.2018 in relation to the stated misbehaviour with the staff for which a minor punishment was awarded of the stopping of mulakat for one week. The said aspect is not refuted on behalf of the State.

As regards the other grounds on which the prayer made by the applicant seeking the grant of parole was declined by the respondent was that he was a habitual offender qua which, the nominal roll itself indicates that the petitioner who had been convicted as under:

Details of other convicted cases, if any, Judicial custody status FIR No. U/S P.S. From To 312/2010 379/411/482/ Neb Sarai 21.12.2010 07.03.2012 Sentenced to 34 IPC period already undergone on 07.03.2012 392/2010 457/380/411/ Sangam 04.12.2020 07.08.2012 Sentenced to 34 IPC period Vihar already undergone on 07.08.2012 291/2010 354/324 IPC Sangam 02.10.2010 11.10.2010 Sentenced to Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:03.06.2022 19:42:44 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Vihar

390/2010	379/411/34 IPC	Sangam	04.12.2010	07.08.2012
		Vihar		

has already undergone the sentences imposed in relation thereto on 7.3.2012, 7.8.2012, 11.10.2010 and 7.8.2012. Apparently thus there appears no ground for the rejection of the prayer made by the petitioner seeking the grant of parole in relation thereto.

The petitioner is thus allowed to be released on parole for a period of four weeks from the date of his release on his submitting a personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Superintendent, Jail, concerned with directions that the petitioner shall under no circumstances leave the city, the petitioner shall keep his mobile phone on at all times and drop a pin on the Google map to ensure that his location is available to the Superintendent Jail, concerned and that the petitioner shall commit no offence whatsoever during the period that he is on parole.

The petition is disposed of.

A copy of the order be sent to the Superintendent Jail, Delhi, concerned.

ANU MALHOTRA, J JUNE 2, 2022/SV Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:03.06.2022 19:42:44 This file is digitally signed by PS to HMJ ANU MALHOTRA.