



\$~78

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

+ **W.P.(CRL) 3627/2025**

NADEEM

.....Petitioner

Through: Ms. Sowjhanya Shankaran, Mr. Akash Sachan, Ms. Anuka Bachawat, Ms. Charu Sinha, Advs.

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through: Ms. Rupali Bandhopadhyia, ASC with Mr. Abhijeet Kumar, Ms. Amisha Gupta, Advs. with SI Shubham, PS Gandhi Nagar.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

%

06.11.2025

CRL.M.A. 32618/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(CRL) 3627/2025

1. The present petition is filed under Article 226 of the Constitution read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] for issuance of writ in the nature of Certiorari for quashing of the Rejection order no. F.18/70/2025/HG/2887-2889 dated 25.09.2025 and also for issuance of writ in the nature of Mandamus directing the respondent to release the petitioner on parole for a period of 04 weeks for filing Special



Leave Petition [“SLP”] before the Hon’ble Supreme Court against the judgment dated 30.06.2025 passed by this Court in Criminal Appeal No. 219/2025 whereby the conviction and order on sentence was passed by learned Principal District and Sessions Judge, Karardooma Courts, Delhi.

2. Vide judgment dated 26.11.2024, petitioner has been convicted under Section 392/411/34 IPC in case FIR no. 438/2016 and by order dated 29.11.2024, has been sentenced as under:

- i. rigorous imprisonment for 04 years alongwith fine of Rs.5,000/- for offence under section 392/34 IPC, in default, to undergo further simple imprisonment for 03 months; and
- ii. fine of Rs.2,000/-for offence under section 411 IPC, in default, to undergo simple imprisonment for 15 days.

3. Learned Counsel for the petitioner states that the petitioner is presently confined in Central Jail No. 13, Mandoli, Delhi and has at present undergone incarceration of about 01 year 01 month (including remission) out of RI for 04 years and fine. It is further stated that petitioner desires to file an SLP through a counsel of his choice and to maintain social ties-for which he has sought parole. It is contended that vide Rejection order no. F.18/70/2025/HG/2887-2889 dated 25.09.2025 filed before the Home Department, Government of NCT of Delhi, the application of the petitioner seeking parole was dismissed by observing that the petitioner has not undergone the minimum required period of 01 year- as mandated by Rule 1210 of the Delhi Prison Rules to be eligible for parole. Being aggrieved, the



petitioner has filed the present petition for grant of parole for a period of 04 weeks.

4. Ld. Counsel further submits that the petitioner has a constitutional right to approach the Hon'ble Supreme Court by filing an SLP, and denial of parole for this purpose amounts to a denial of justice. The 01 year bar under Rule 1210(I) of the Delhi Prison Rules, 2018 cannot override a fundamental right to legal recourse. Filing of an SLP is a "special circumstance" within the meaning of the Rules. Reliance is placed on the judgment of Coordinate bench of this Court in *Parsu Ram v. State (GNCT of Delhi), W.P. (Crl.) 29/2023*, where the Court granted parole for filing an SLP, holding that such a right cannot be withheld on procedural grounds. It is contended that the petitioner's jail conduct is satisfactory, and he has not been awarded any punishment. It is prayed that parole of 04 weeks be granted to the petitioner.

5. *Per contra*, learned ASC for the State submits that the appeal preferred by the petitioner was decided by this Court vide order dated 30.06.2025. The limitation time to file SLP from an appeal is 60 days, extendable upto 90 days. But, the petitioner waited almost 4 months to file SLP against the appeal.

6. The Ld. ASC for the State also drew the attention of this Court to the fact that the petitioner is not entitled to parole in view of Rule 1210 (I) of Delhi Prison Rules, 2018 as the petitioner has not completed 01 year of incarceration as convict-which is a statutory pre-condition to be eligible for parole under this Rule. As per the Nominal Roll dated 29.10.2025, the petitioner has undergone 09 months of imprisonment (excluding remission), out of the total sentence of RI for 04 years, thereby rendering him ineligible



for parole. Moreover, the petitioner has shown no exceptional cause to be considered for grant of parole. It is also stated that there are two other criminal cases pending against the petitioner and that the petitioner may commit similar offence or abscond if released on parole.

7. Heard learned counsel for the parties and perused the record.

8. A convict is not barred from seeking parole, as discretion has been vested in the Competent Authority to grant parole to such convict under “special circumstances” like serious illness of a close relative, death in family etc. The Competent Authority should keep in mind the purpose of parole as listed out in Rule 1200 of the Prison Rules. These are reproduced below for ready reference:-

“1200. The objectives of releasing a prisoner on parole and furlough are:

- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,*
- ii. To enable him to maintain and develop his self-confidence,*
- iii. To enable him to develop constructive hope and active interest in life,*
- iv. To help him remain in touch with the developments in the outside world,*
- v. To help him remain physiologically and psychologically healthy,*
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and,*
- vii. To motivate him to maintain good conduct and discipline in the prison.”*

9. The ground taken by the petitioner for grant of parole in the present case is filing of SLP against the judgment of the High Court in Criminal Appeal No. 219/2025 which was dismissed vide judgment dated 30.06.2025



wherein the judgment of conviction and order on sentence were upheld. It is the right of a citizen to effectively pursue his legal remedy in the last court of justice in the country by filing SLP through a counsel of his own choice which is a valuable right. This cannot be withheld merely on the basis of his past conduct or on the ground that free legal aid is available and that SLP can be filed from the jail itself. Needless to say, availing his legal remedy in the Apex Court of the country is the right of the petitioner and this Court is not inclined to withdraw the same. As seen in a catena of judgments by the Coordinate benches in- ***Rakesh @ Diwan v. State of NCT of Delhi***, W.P.(CRL.)480/2022 decided on 05.05.2022; ***Shivam Singh v State of NCT of Delhi*** 2024 SCC OnLine Del 5567; ***Bharat Bhardwaj v State*** 2024SCC OnLine Del 4180; ***Neeraj Bhatt v. State of NCT of Delhi***2023 SCC OnLine Del 32 and ***Raj Kumar @ Bheema v State***, W.P.(Crl.) 150/2023 decided on 14.09.2023, it is inferred that it is the Constitutional right of the accused under Article 21 of the Constitution and Section 303 CrPC whereby the accused can engage a counsel of his choice.

10. In the present case, the petitioner also seeks parole on the ground that he has to take care of ailing mother and minor brothers and he seeks grant of parole for 04 weeks on this ground. It is well settled that parole is an established facet aimed at enabling a convict to maintain family and social ties and to discharge essential obligations. In these circumstances, this Court is of the opinion that the rigour of Rule 1210 must give way to the humanitarian necessity in the instant case. The Court is mindful of the fact that the offence committed is of a serious nature, but to deny parole despite existence of a humanitarian ground would amount to a mechanical



application of the Rules, defeating the very objective underlying parole jurisprudence.

11. The criteria of one year incarceration is not absolute. It can be relaxed where strict application would result in denial of a fundamental or statutory right. Pursuing a legal remedy before the Hon'ble Supreme Court through an SLP constitutes such a special circumstance. Thus, the 01 year stipulation under Rule 1210(I) cannot override the petitioner's constitutional right of access to justice. The Rule must be read harmoniously with Article 21, ensuring that procedural requirements do not stifle substantive rights.

12. Perusal of the Nominal Roll dated 29.10.2025 shows that the petitioner has not availed parole/furlough till now, his conduct has been satisfactory and no punishments are awarded to him. Moreover, the incarceration period would have disrupted his family life and would have impacted him physically and psychologically.

13. Accordingly, the petition is allowed and the petitioner Nadeem is directed to be released on parole for a period of 01 week from the date of release, subject to the following conditions:

- (i) He shall furnish a personal bond of Rs. 20,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent;
- (ii) He shall reside only at the address mentioned in the memo of parties and shall not leave the NCR without prior permission;
- (iii) He shall report to the SHO, PS Gandhi Nagar on Tuesday and Thursday at 10:00 AM. The concerned officer shall release



the petitioner by 11:00 AM after recording his presence and completing all necessary formalities;

(iv) The petitioner shall provide his mobile number to the concerned jail authorities and to the Investigating Officer and ensure it remains operational at all times;

(v) He shall not directly or indirectly attempt to influence witnesses or tamper with the evidence;

(vi) He shall surrender before the Jail Superintendent immediately upon expiry of the parole period.

14. It is made clear that breach of any of the above conditions shall entail cancellation of parole forthwith.

15. The petition is accordingly disposed of in the above terms.

16. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

17. It is clarified that this order is passed considering the peculiar facts of the case and shall not be treated as a precedent for general relaxation of Rule 1210 (I) of the Delhi Prison Rules, 2018.

RAVINDER DUDEJA, J

NOVEMBER 6, 2025/AK