

Arvind @ Jagdish Kumar Vs. State of the Nct of Delhi

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Court : Delhi

Decided On : Feb-17-2011

Judge : Hima Kohli, J.

Acts : [Constitution of India](#) - Article 227; Indian Penal Code (IPC) - Sections 392, 397, 302, 411, 34; Arms Act - Section 25

Appeal No. : W.P.(CRL) 96/2011

Appellant : Arvind @ Jagdish Kumar

Respondent : State of the Nct of Delhi

Advocate for Def. : Mr. Asim; Mr. Ranjit Kapoor, Adv.

Advocate for Pet/Ap. : Ms. Ritu Gauba, Adv.

Judgement :

1. Whether Reporters of Local papers may No be allowed to see the Judgment?
2. To be referred to the Reporter or not? No
3. Whether the judgment should be No reported in the Digest?

1. The present petition is filed by the petitioner under Article 227 of the [Constitution of India](#) read with Section 482 Cr.P.C. praying inter alia for grant of parole for a period of three months to enable him to get proper medical treatment for his parents, to arrange finance for the same and to re- establish social ties with

his family members and society.

2. Status report was called and the same is placed on record. The State has opposed grant of parole to the petitioner on the ground that on verification, it was found that neither of the parents of the petitioner was suffering from any serious disease. Further, on inquiry, it was found that the petitioner has two married brothers, who are living in the same house with their families and are looking after the parents. He also has two married sisters. Therefore, it is stated that parole should not be granted on the ground of ill-health of the parents.

3. Counsel for the petitioner states that apart from the ground of ill-health, the petitioner has also sought parole on the ground of maintaining social ties with his family members and society.

4. The nominal roll of the petitioner reveals that he was sentenced to undergo rigorous imprisonment for life and to pay a fine of `1500/-, in default of payment of fine, to further undergo rigorous imprisonment for a period of nine months, for the offences committed in respect of FIRs No.773/1999 & 771/1999 under Sections 392/397/302/411/34 IPC & 25 of the Arms Act. As on 23.12.2010, the petitioner had undergone sentence for a period of eleven years, one month and twenty seven days and earned remission for a period of one year and ten months. The offence for which punishment was imposed on the petitioner was dated 1.2.2010 for which remission of twenty days was forfeited. Admittedly, interim bail was granted to the petitioner w.e.f. 20.9.2006 to 19.12.2006. For the past one year, he has not been punished for any offence.

5. Counsel for the petitioner states that after the judgment dated 3.7.2007 passed in Crl.A. No.20/2005, dismissing the appeal of the petitioner, he has neither applied for, nor been granted parole till date. Furthermore, the punishment imposed on the petitioner is one which was imposed on him on 1.2.2010, on which account he has suffered forfeiture of remission of 20 days.

6. In view of the fact that the parole guidelines entitle a convict to claim parole on the ground of maintaining social ties with his family members and society, merely because it is found that the parents of the petitioner are not suffering from any life

threatening ailment, cannot be a ground to dismiss his parole application. In *Inder Singh v. State* reported as AIR 1978 SC 1091, the Supreme Court had devised a humanising strategy, viz, a guarded parole release every year at least for a month, punctuating the total prison term, for maintaining family ties of a convict. It has been held that a prisoner cannot maintain his family ties by living in a small world of his own cribbed, cabined and confined within the four walls of the prison. In the case of *Inder Singh* (supra), the Supreme Court had directed that:

"12.If the behavior of these two prisoners shows responsibility and trustworthiness, liberal though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not further buildup. After every period of one year, they should be enlarged on parole for two months....."

7. In these circumstances, the petitioner is granted parole for a period of four weeks to re-establish social ties with his family members and society, subject to the following conditions:-

- (i) The petitioner shall furnish a personal bond in the sum of `20,000/- with one surety of the like amount to the satisfaction of the trial court.
- (ii) The petitioner shall report to the SHO of the concerned local Police Station at Uttar Pradesh immediately upon his arriving at his native place and thereafter, once a week on every Sunday at 10:00 AM.
- (iii) The petitioner shall furnish a telephone number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also inform his telephone number to the SHO of the police station concerned.
- (iv) Immediately upon the expiry of period of parole, the petitioner shall surrender himself before the Jail Superintendent.
- (v) The period of parole shall be counted from the day after the date when the petitioner is released from jail.

8. The petition is disposed of.