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

CNR No. DLHC010042832026

+ **W.P.(CRL) 448/2026**

MR X

.....Petitioner

Through: **Mr. Anup Kr. Das and Mr. Uday Chauhan, Advocates.**

versus

STATE NCT OF DELHI

.....Respondent

Through: **Mr. Yasir Rauf Ansari, ASC for State.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% 01.09.2026

1. The petition seeks for the following reliefs:

“A. Issue a writ in the nature of Certiorari Quashing the Order No. F.10(003768493)/CJ /Legal/PHQ/2025/9428 Dated: 26.12.2025 passed by the Director General of Prisons, Tihar, Delhi and Further issuance of Writ in the Nature of Mandamus directing the Respondent to release the petitioner on 1st Spell off Furlough for a period of 21 days.”

2. The petitioner stands convicted in FIR No. 69/2009, PS Vasant Vihar, Delhi under Sections 302/364/201/394/468/471/482 IPC read with Sections 25/54/59 of the Arms Act, and is undergoing sentence of imprisonment for life. He has remained in judicial custody since 23.03.2009, a period exceeding 16 years in actual custody, and in excess of 18 years reckoned with remission and is presently confined at Central Jail No. 15, Mandoli,



Delhi.

3. The petitioner applied to the Competent Authority for grant of his 1st spell of furlough. The application came to be declined *vide* the impugned order dated 26.12.2025. The operative reasoning whereof reads as under:-

“Ministry of Home Affairs, Government of India has issued an advisory No. V-17014/2024-PR wherein Habitual Offender has been defined... 'Habitual offender means a person who during any continuous period of five years, has been convicted and sentenced to imprisonment on more than two occasions on account of any one or more of the offences committed on different occasions and not constituting parts of same transaction, such sentence not having been reversed in appeal or review.' Rule 1223(II) of the DPR, 2018 states that in order to be eligible to obtain furlough, the prisoner should not be a habitual offender. The convict Ravi Kapoor... is reported to be a habitual offender, hence, he is not eligible for furlough... Moreover, the said convict is a Habitual Jail Rule Offender and he has 42 Punishments recorded against him for violation of prison rules.”

4. The order thus rests on two independent findings, i.e., (a) the petitioner is a “habitual offender” within Rule 1223(ii) of the Delhi Prison Rules, 2018 (DPR), read with the MHA advisory No. V-17014/2024-PR referencing ***Sukanya Shantha v. Union of India***, W.P.(C) No. 1404/2023; and (b) that he is a “Habitual Jail Rule Offender,” having 42 recorded punishments.

5. It would also be apposite to notice the order dated 04.03.2025 passed by this Court in W.P.(Crl) 2168/2024, whereby furlough was granted to a co-convict in a connected FIR, Baljeet Malik @ Poppy, on facts materially similar to those at hand. Paragraph 11 of the said order records:

“11. This Court finds merit in the submission of the Petitioner that the offence which is subject matter of FIR No. 481/2008 pre-dates the offence which is subject matter of the present FIR No. 69/2009. The Petitioner's sentence in FIR No. 481/2008 has been suspended by the Division Bench vide order dated 12.02.2024 and therefore placing reliance on the suspended sentence to deny the plea for furlough has the effect of negating



the order dated 12.02.2024.”

6. Having considered the record and the submissions, this Court is unable to sustain either limb of the reasoning contained in the impugned order.

7. The nature and object of furlough are well settled. In ***Asfaq v. State of Rajasthan***,¹ the Supreme Court explained that furlough is a conditional release, granted in cases of long-term imprisonment as a reward for good conduct, the object whereof is to enable the convict to maintain his links with society and to attend to his personal and family affairs. The provisions for parole and furlough, it was observed, embody a humanistic approach towards those lodged in jail; and, for a convict who must otherwise remain in prison for the whole of his life, such a release for a short period is to be regarded as an opportunity afforded to him to solve his personal and family problems and to maintain his links with society.

8. Furlough, is not a matter of unqualified entitlement. The Supreme Court, in ***State of Gujarat v. Narayan Sai***,² while explaining the distinction between parole and furlough, held that furlough may accrue after a stipulated period without the prisoner having to show any particular exigency, its object being to break the monotony of incarceration and preserve continuity with family life but that it remains subject to a balance against the public interest, and is not an absolute legal right. Equally, this discretion cannot be exercised on a footing that misapplies the very rule said to disentitle the convict.

9. On the finding of “habitual offender”, Rule 1223(ii) of the Delhi

¹ (2017) 15 SCC 55.

² 2021 SCC OnLine SC 949.



Prison Rules, 2018 provides as under:-

“1223. In order to be eligible to obtain furlough, the prisoner must fulfill the following criteria:—

- (i) Good conduct in the prison and should have earned rewards in last 3 Annual Good Conduct Reports and continues to maintain good conduct.*
- (ii) The prisoner should not be a habitual offender.*
- (iii) The prisoner should be a citizen of India.”*

10. The expression “habitual offender” stands defined in the MHA advisory No. V-17014/2024-PR, extracted in the impugned order itself, as a person who, within a continuous period of five years, has been convicted and sentenced to imprisonment on more than two occasions, on account of offences not forming part of the same transaction, such sentences not having been reversed in appeal or review.

11. This is squarely the view taken by this Court in ***Vinod @ Bhole v. State (Govt. of NCT of Delhi)***,³ where it was held, on a construction of the identical definition, that convictions recorded during a period of continuous incarceration cannot render a prisoner a habitual offender for the purpose of Rule 1223(ii).

12. Applying that test, the petitioner has been in unbroken judicial custody since 23.03.2009. The subsequent conviction, which alone could have supplied the second occasion under the advisory, stands, on the record, suspended by this Court *vide* order dated 12.02.2024 in CrI.A. 43/2024, i.e., a circumstance materially identical to that considered by this Court in respect of the co-convict Baljeet Malik @ Poppy in W.P.(CrI) 2168/2024. To sustain the finding of habitual offender on this record would, for the same reasons, have the effect of negating this Court’s own order dated 12.02.2024. The first limb of the impugned order is accordingly



unsustainable.

13. On the finding of Habitual Jail Rule Offender, the correctness of 42 punishments relied upon is presently under challenge in W.P.(Crl) 3109/2024. Rule 1223(i), DPR, 2018, in contrast, conditions eligibility on the last three Annual Good Conduct Reports, which the petitioner has admittedly earned, a position independently corroborated by the Probation Officer's report dated 06.04.2024 recording satisfactory conduct over the preceding three years. A separately-challenged disciplinary record cannot be permitted to override the statutory test that Rule 1223 itself prescribes for current eligibility.

14. Having regard to the length of custody undergone, the satisfactory conduct reflected in the last three AGCRs and the Probation Officer's report, the petitioner's unblemished record on the two occasions he was earlier released on parole, his stated medical condition, and the parity available from the order dated 04.03.2025 passed in respect of a similarly placed co-convict, this Court is of the view that the impugned order cannot be sustained.

15. The order dated 26.12.2025 is, therefore, set aside and the applicant is granted furlough for a period of 3 weeks under the same terms and conditions imposed *vide* order dated 04.03.2025 in W.P. (CRL) 2168/2024.

16. The petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 1, 2026

aks/NK

³ 2026:DHC:14.