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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 17th March, 2016

+ W.P.(CRL) 640/2016

SAMEER HUSSAIN

..... Petitioner

Through

Ms. Rakhi Dubey, Advocate

versus

STATE

..... Respondent

Through

Ms. Richa Kapoor, ASC (Crl.)

SI Shri Bhagwan, PS Neb Sarai

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) praying for a direction to the official respondent to release the petitioner on first spell of furlough of three weeks in order to enable him to re-connect social ties with the family and society.

2. The petitioner is aggrieved by the order dated 1st February, 2016 whereby his application for grant of first spell of furlough *inter alia* on the above-stated ground was rejected by the competent authority in view of para 26.1 of the Parole/Furlough Guidelines, 2010 stating that:-

“the competent authority has declined the application for grant of 1st spell of furlough to the convict Sameer Hussain S/o Wakil Ahmed as the said convict has been punished on 02.07.2014. Hence, he is not eligible as per para 26.1 of Parole/Furlough Guidelines, 2010 which states as under:-

26.1. “Good conduct in the prison and should have earned three annual good conduct remission and continues to maintain good conduct.”

3. The sole reason stated by the competent authority in the order impugned herein does not take into consideration the circumstance that subsequent to having been punished for unsatisfactory conduct in 2014, the petitioner was released on parole by this Court in 2015 as well as the circumstance that the conduct of the petitioner has been satisfactory in jail for the past one year.

4. It is pertinent to mention here that Para 26.1 of Parole/Furlough Guidelines: 2010 are merely guidelines and cannot be applied blindly in every case.

5. In view of the foregoing, I see no impediment in allowing the present writ petition.

6. Consequently, the petitioner is enlarged on first spell of furlough for a period of three weeks from the date of his release on his furnishing a personal bond in the sum of Rs.5,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions that:-

- (i) During the period the petitioner remains out on first spell of furlough, he shall report to the SHO, Krishna Colony, Village Sehatpur, Distt. Faridabad, Haryana once a week on every Wednesday.
- (ii) The petitioner shall also provide the SHO of the concerned Police Station with his mobile telephone number which he undertakes to keep operational.
- (iii) He shall not leave the jurisdiction of the concerned Police Station in Faridabad, Haryana without the prior permission of this Court except to surrender before the jail authorities.
- (iv) Lastly, the petitioner shall surrender before the jail authorities at the expiry of the period of first spell of furlough.

7. With the above directions, the writ petition is allowed and disposed of accordingly.

8. A copy of this order be sent to the Jail Superintendent for necessary information and compliance.

SIDDHARTH MRIDUL, J

MARCH 17, 2016

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