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

+ **W.P.(CRL) 1600/2016**

MUSA SINGH

..... Petitioner

Through: Mr. Ajay Verma with Ms. Katyayini,
Advocates

versus

STATE

..... Respondent

Through: Mr. Rajesh Mahajan, ASC for State

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
12.07.2016

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By this writ petition, the petitioner seeks quashing of the order dated 28.03.2016 passed by the Director General (Prisons) rejecting the petitioners application for grant of furlough on the following grounds:

- i) The presence of convict is very dangerous.
- ii) The presence of the convict will be prejudicial to the public peace and tranquillity and may impact on the law and order.
- iii) Furlough/parole is highly opposed.
- iv) He may jump furlough.

The submission of learned counsel for the petitioner, premised on reading of the Parole/Furlough Guidelines, 2010 contained in the notification dated 17.02.2010 issued by the GNCTD is that the said guidelines provide that a prisoner who is sentenced to five years or more of rigorous imprisonment but has undergone three years of imprisonment excluding remission can be released on furlough. Learned counsel submits that guideline 26 sets out the eligibility condition which a person should meet before he could be rewarded with furlough. It is submitted that the petitioner meets the said condition inasmuch, as, even earlier he has been released on parole and the latest nominal roll does not disclose any reason why he should be denied furlough.

The submission is that the reasons recorded in the impugned order are mechanical and without any basis. To claim that the petitioner is very dangerous is not correct inasmuch, as, his conduct while he was out on parole has not been found to be objectionable in any manner. It is not stated as to how his furlough would be prejudicial to public peace and tranquillity. There is no specific reason disclosed for opposing the furlough. On earlier occasion, he was released on parole and the petitioner surrendered punctually and there is no reason to claim that he may jump furlough, if granted.

On the other hand, Mr. Mahajan submits that the petitioner had been released on parole for a period of four weeks by this court from 13.01.2016 to 10.02.2016 and, therefore, not much time has elapsed since the last time the petitioner was out of the prison and reconnected with the society. He submits that some more time should lapse before the petitioner's application for furlough could be considered. It is further submitted that the period

spent on furlough is considered as period undergone in prison. It is submitted that if the said guidelines are literally construed, it would mean that after adding the period of furlough, parole and remission, there would be hardly any period in a year that the convict would spend in jail and the whole purpose of the sentence would be defeated. He submits that the Government is framing fresh guidelines for grant of parole/ furlough in view of the aforesaid situation.

Be that as it may, this court is presently concerned with the existing guidelines which are being uniformly applied in respect of convicts who are undergoing sentence under different offences. Having perused the guidelines and the past history of the case, in my view, the rejection of the petitioner's application for grant of furlough was mechanical and the four reasons disclosed in the impugned order dated 28.03.2016 have no basis and supporting background material. The petitioner had been earlier released on parole and his conduct during the period spent on parole has not been found to be objectionable and he had surrendered punctually. The petitioner has already undergone a sentence of over ten years as on 03.05.2016. In these circumstances, the petition is allowed. The impugned order dated 28.03.2016 is quashed and the petitioner is directed to be released on furlough for a period of three weeks, considering that this is the first furlough of the petitioner during this year.

The petitioner shall furnish a personal bond with one surety in the sum of Rs.10,000/- to the satisfaction of the Jail Superintendent. He shall surrender on or before the due date of the expiry of furlough. He shall not leave the NCT of Delhi and he shall report every week before the SHO of the local police station at 11:00 a.m. on every Monday.

A copy of this order shall be communicated to the Jail
Superintendent.

VIPIN SANGHI, J

JULY 12, 2016

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