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

+ W.P.(CRL) 3300/2016

KRISHAN RAM

..... Petitioner

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

versus

STATE

..... Respondent

Through: Mr. Sanjay Lao, ASC for the State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

20.12.2016

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1. The petitioner has preferred the present writ petition to seek a writ of certiorari quashing the order dated 28.06.2016 passed by the State, whereby the petitioner's application to seek first spell of furlough has been declined on the ground that he has been punished for late surrender after availing furlough on 11.05.2016 and 18.06.2016. For this reason, the case was not recommended by the Superintendent, Central Jail No.2. The petitioner also seeks a direction that he be released on first spell of furlough for a period of three weeks.

2. Mr. Lao has tendered a status report, which is taken on record. The status report shows that the petitioner's mother passed away on 08.11.2016.

3. The latest nominal roll was also called, which shows that the

petitioner is undergoing life sentence in case FIR No.369/2008 under Section 302 IPC registered at Police Station – Mehrauli. The petitioner has undergone 8 years, 2 months and 18 days of incarceration as on 19.12.2016. He has been released on furlough on several occasions. The two occasions on which he surrendered late by one day has been taken note of hereinabove.

4. The submission of learned counsel for the petitioner is that at the time of his release on furlough on earlier occasions, he was verbally informed that he was being released on furlough for two weeks and three weeks respectively. According to the petitioner, there was confusion in his mind with regard to the date of surrender due to which he surrendered late by a day.

5. On a query by the Court, Mr. Lao states that at the time of release of prisoners on furlough/ parole, they are only verbally informed and there is no written communication made to them with regard to the specific date by when they are required to surrender at the end of the parole/ furlough period.

6. The explanation furnished by the petitioner in the aforesaid circumstances appears to be plausible. There is every likelihood that a convict, who has been released on parole/ furlough may wrongly compute the date of his surrender by a day, or so. In my view, the aforesaid is a lacuna in the system which needs to be corrected forthwith. While accepting the petitioner's explanation, I, therefore, direct the DGP, Tihar to ensure that henceforth whenever a convict is released on parole/ furlough, he is communicated in writing the date by when he has to surrender. His acknowledgement should be taken on a copy of the written document as

evidence of his having received such a communication and of his being aware of the date by when he has to surrender.

7. In view of the fact that the petitioner's jail conduct is otherwise found to be satisfactory and the fact that his mother has passed away on 08.11.2016, the petitioner is directed to be released on furlough for a period of three weeks subject to:

- i) his furnishing personal bond with one surety in the sum of Rs.10,000/- to the satisfaction of the Jail Superintendent;
- ii) he shall provide his mobile phone number to the Jail Superintendent at the time of his release, which shall be kept in working condition at all times. The same shall not be changed without prior intimation to the Jail Superintendent;
- iii) he shall report at the local police station to mark his attendance on every Monday at 11:00 a.m. during the period of furlough;
- iv) he shall duly surrender at the end of the period of furlough; and
- v) he shall also not indulge in any criminal activity while on furlough.

7. A copy of this order be communicated to the DGP, Tihar as well as to the Jail Superintendants of Tihar Jail, Rohini Jail & Mandoli Jail.

VIPIN SANGHI, J

DECEMBER 20, 2016

B.S. Rohella