

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

% Decided on: 1st October, 2018

+ **W.P.(CRL) 2760/2018**

RAHUL DEV ... Petitioner

Represented by: Mr.Akshay Bhandari, Advocate

versus

STATE (GOVT NCT OF DELHI) ... Respondent

Represented by: Ms.Kamna Vohra, ASC for the State
with Mr.Ajay Kashyap, DG (Prisons).

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By this petition, petitioner had sought furlough.
2. The grievance of the petitioner is that he was granted first spell of furlough from 29th June, 2018 to 20th July, 2018 on furnishing cash surety of ₹4,000/- as modified by this Court whereafter petitioner filed an application before the Director General (Prisons) for grant of second spell of furlough for a period of two weeks which was granted to him vide order dated 24th August, 2018 but subject to the condition that the petitioner will furnish two sureties of ₹10,000/- each and the personal bond of the same amount. Case of the petitioner is that the conviction year of the petitioner starts on 29th August, and despite the petitioner having filed an application on 26th July, 2018 for the second spell of furlough the same was decided on 24th August, 2018 and since only six days remained for completion of conviction year, the petitioner was not permitted to avail the two weeks furlough as granted

to him. Petitioner states that he made an application well in time and the delay if any was on account of the processing and verification for which the petitioner cannot be penalized. Further once the petitioner was released on cash surety as modified by this Court vide order dated 23rd May, 2018 in W.P. (Crl.) No.1386/2018 there was no reason for delay in processing the request of furlough which is also contrary to the Standing Order No.82 issued by the office of Director General (Prisons) passed pursuant to the directions of the Division Bench of this Court in W.P. (Crl.) No.1779/2014 titled as '*Court on its own motion vs. Govt. of NCT of Delhi*'.

3. For the facts noted above, a notice was issued to the Director General (Prisons) to file a reply affidavit and to be present in Court. Director General (Prisons) is present in Court. An affidavit has been filed by the Director General (Prisons). Along with the affidavit, Standing Order No.15 for Grant of Parole and Furlough to the Convicts-Guidelines has also been placed on record.

4. In the present case undoubtedly there is a violation of the said guidelines as the petitioner had sought the second spell of furlough on the ground that his father was unwell and the application was sent by the Superintendent, Tihar Jail without the necessary recommendation, hence the application had to be re-directed to the Superintendent for his necessary comments which took substantial time of around 16 days resulting in the petitioner's conviction year coming to an end.

5. For the delay and non-following of the Standing Order No.15, the petitioner cannot be penalized. The Director General (Prisons) has been apprised of the various other issues arising in the case. He has also been apprised of the fact that the Superintendent and Deputy Superintendent, Jail

are refraining from attesting the affidavits of the prisoners in case the bail/parole/furlough applications/petitions are filed by the inmates through private counsel which is contrary to the duties assigned to them. The Director General (Prisons) has assured the Court that he will look into the matter and ensure that streamlining of the system is done so that a uniform pattern is followed.

6. By this petition the petitioner has sought furlough for a period of two weeks on his furnishing cash surety of ₹4,000/-. A perusal of the Nominal Roll reveals that the petitioner has availed a parole for a period of four weeks w.e.f. 22nd January, 2018 granted by the Government of NCT of Delhi and furlough for a period of three weeks w.e.f. 29th June, 2018 granted by DG (Prisons). The furlough which was granted for a period of three weeks on his furnishing personal bond in the sum of ₹10,000/- with two sureties of the like amount was modified by this Court vide order dated 23rd May, 2018 and the petitioner was directed to be released on a personal bond along with cash surety of ₹4,000/- and the petitioner has not misused the said concession.

7. Consequently, the order of grant of second spell of furlough dated 24th August, 2018 is modified. The petitioner is directed to be released on furlough for a period of two weeks on his furnishing a cash surety for a sum of ₹4,000/- and a personal bond in the same amount, to the satisfaction of the Superintendent, Mandoli Jail subject to the condition that the petitioner will reside at Quarter No.3533, Sector-12-B, Bokaro Steel City, Jharkhand, the place of his residence and give the contact details of one of his family members to the Superintendent, Jail so that if need arises, the said person can be contacted.

8. Petition is disposed of.
9. Copy of this order be communicated to the petitioner through Superintendent, Mandoli Jail.

(MUKTA GUPTA)
JUDGE

OCTOBER 01, 2018
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