

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

% Decided on: 22nd April, 2019

+ **W.P.(CRL) 884/2019**

MR. PUSCHPENDER Petitioner

Represented by: Mr. Sunil Kumar, Adv.

versus

STATE & ANR. Respondent

Represented by: Mr. Rahul Mehra, Standing Counsel
with Mr. Jamal Akhtar, Adv. with Mr.
Amanpreet Singh, Adv. with SI
Vineet Kumar PS Narela.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. The two prayers of the petitioner in the present petition are to grant 2nd and 3rd spell of furlough together so that he can avail the same in one go and quash the punishment as approved on 10th January, 2019 for the alleged incident dated 4th December, 2018.

2. As regards availing 2nd and 3rd spell of furlough together are concerned, it is trite that furlough is a reward of good behaviour in the prisons and as three spells of furlough are granted in one conviction year to people who are eligible for the same; the three furloughs are therefore required to be phased out so that the prisoner can avail the same at regular intervals and be in touch with the society. If for any exigency a prisoner is

W.P.(CRL) 884/2019

page 1 of 3

required to be released, he has the option of taking parole which can also be exercised by the competent authority. Thus this Court finds no ground to permit the application of the petitioner directing that the 2nd and 3rd spell of furlough be granted to the petitioner together.

3. As regards quashing of the punishment approved on 10th January, 2019 is concerned, the order dated 27th December, 2018 in this regard reads as under:

“On 03.12.2018, convict Pushpender s/o Babul al has filed an application in Convict office for grant of 2nd & 3rd spell of furlough together.

On 04.12.2018, aforesaid convict was called in the Convict Office and informed that application for grant of two spells of furlough together cannot be processed by this office and he was advised to apply for 2nd spell of furlough after 18.12.2018, but he threatened that if my application will not be forwarded, he may approach the Hon’ble Jail Visiting Judge and Hon’ble High Court of Delhi for necessary directions.

Accordingly, a file was moved by this office to Prison Headquarters seeking clarification whether his application for grant of two spells of furlough together can be processed by this office or not and Competent Authority has directed to register necessary punishment against the convict as pressurising jail authority is a punishable offence.

As per Delhi Jail Manual Chapter XI Rule 46 Sub Para 4 “The use of insulting or threatening language” is declared to be prison offence and act of the aforesaid convict falls under this category, hence he may be punished suitably.”

4. A perusal of the allegations against the petitioner as noted reveals that when his file was not processed for two spells of furlough together and he was advised to apply for 2nd spell of furlough after 18th December, 2018 he

threatened that if his application will not be forwarded he may approach the Jail Visiting Judge and Hon'ble High Court of Delhi for necessary directions.

5. Learned Standing Counsel for the State emphasising on Chapter XI Section 46 of the Delhi Prisons Act 2000 states that as per sub-Section 4 of Section 46 “use of insulting or threatening language” is a prison offence.

6. Though there is some merit in the arguments of learned Standing Counsel for the State, however the fact remains that in the order impugned the finding of the competent authority is that the petitioner stated that “petitioner threatened that if his application would not be forwarded, he may approach the Jail visiting Judge and Hon'ble High Court of Delhi” for necessary directions. Approaching Judicial Foras and availing of legal remedies cannot be said to be a threat. Further, said language used by the petitioner cannot be termed to be falling within the ambit of the words “the use of insulting or threatening language” under Section 46 of Section 4 of the Delhi Prisons Act 2000.

7. Thus the punishment awarded to the petitioner as approved on 10th January, 2019 is set aside. Petition is disposed of. Order dasti.

(MUKTA GUPTA)
JUDGE

APRIL 22, 2019
‘ga’

W.P.(CRL) 884/2019

page 3 of 3