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

+ W.P.(CRL) 1287/2019

MAZHAR UL ISLAM

..... Petitioner

Through Mr Nitesh Gupta, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through Ms Nandita Rao, ASC for State.

ASI Krishan Pal, P.S. Seelampur.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **05.09.2019**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“Allow the writ petition and issue a writ in the nature of certiorari quashing the punishment dated 27.03.2019 and issue a writ in the nature of mandamus by directing the respondent to release the petitioner on 1<sup>st</sup> spell of furlough for a period of 03 weeks in the interest of justice and equity”

2. Insofar as the imposition of the punishment is concerned, the same has been imposed on the petitioner as certain articles were found in the barrack where the petitioner was housed. The petitioner had also issued a letter acknowledging his fault and further stating that the same would not be repeated. Notwithstanding the same, the petitioner now claims that the said articles belonged to other inmates. He states that all the co-inmates had given

a similar letter of apology. However, one of them had subsequently owned up that the said articles (heater and loose tobacco) belonged to him and not the other inmates. He submits that the punishment imposed on the petitioner is unwarranted.

3. This Court is not inclined to examine this controversy in this petition. It would further be open for the petitioner to agitate the same before the concerned authorities.

4. Insofar as the petitioner's request that he be released on the first spell of furlough is concerned, it is seen that the petitioner had been granted a furlough prior by an order dated 05.11.2018. His furlough was cancelled on account of the punishment imposed on him subsequently. This Court is of the view that no interference with the earlier decision was warranted. The petitioner had already been granted furlough and it is not apposite to cancel the same on account of a subsequent incident, which is not of a serious nature. The said punishment, if not cancelled/withdrawn, could be taken into account for considering further spells of furlough/parole.

5. In view of the above, the respondents are directed to release the petitioner on furlough for a period of three weeks subject to the conditions, as stated in the order dated 05.11.2018.

6. The petition is disposed of in the aforesaid terms.

**VIBHU BAKHRU, J**

**SEPTEMBER 05, 2019**

pkv