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

+ **W.P.(CRL) 2368/2019**

SUMIT @ PAWAN

..... Petitioner

Through: Ms Neha Kapoor and Mr Mohit
Bhadu, Advocates.

versus

STATE

..... Respondent

Through: Mr Piyush Singhal and Ms Niharika
Yadav, Advocates for Mr Ashish
Aggarwal, ASC for State with SI
Jaibir, PS Bhalswa Dairy.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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26.02.2020

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondent no.2 to grant the first spell of furlough to the petitioner for a period of three weeks. The petitioner was prosecuted and convicted pursuant to FIR No. 90/2010 under Sections 302/34/201 of the IPC registered with PS Bhalswa Dairy. The petitioner had applied for furlough, however, the same was rejected by an order dated 05.02.2019, which is impugned herein.
2. The impugned order indicates that the Competent Authority has held that the petitioner is not entitled to furlough in terms of Rule 1223(I) of the Delhi Prison Rules, 2018 (hereafter the 'Rules'), since he has not earned three Annual Good Conduct Reports.

3. Rule 1223(I) of the Rules reads as under:

“1223. In order to be eligible to obtain furlough, the prisoner must fulfill the following criteria:-

I. Good conduct in the prison and should have earned rewards in last 3 Annual good conduct report and continues to maintain good conduct.

XXXX”

4. The learned counsel appearing for the petitioner submits that Rule 1223(I) of the Rules cannot be given retrospective effect, as that would violate Article 20(1) of the Constitution of India.

5. The said contention is unmerited. Refusing to grant furlough does not amount to giving retrospective effect to the Rules. It is well settled that a law is not *ex post facto* merely because it draws from events antecedent to its coming into force. The decision whether the petitioner should be granted furlough is required to be taken in terms of the rules currently in force.

6. It is also relevant to note that grant of furlough is a reward and there is no infirmity in applying the criteria that the prisoner’s conduct in jail be good for a specified period of time. Refusal to grant furlough cannot be considered as imposing any penalty on the prisoner. It does not amount to taking away a prisoner’s vested or accrued right. Thus, the contention that denying furlough to the petitioner on account of his conduct in the past falls foul of Article 20(1) of the Constitution of India, is unmerited.

7. In view of the above, this Court finds no infirmity with the impugned order. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

FEBRUARY 26, 2020/MK