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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% Order pronounced on 03.06.2022

+ W.P.(CRL) 764/2022

SULTAN@RAJESH

..... Petitioner

Through: Mr. Drishna Datta Multani & Mr.
Zeeshan Diwan, Advs.

versus

STATE OF GNCT OF DELHI

..... Respondent

Through: Mr. S. Lao, Standing Counsel for
State.
SI Aman Pal Singh, PS Jamia Nagar.**CORAM:****HON'BLE MR. JUSTICE TALWANT SINGH****Talwant Singh, J.:**

1. The petitioner has filed this writ petition mentioning therein that he has already spent more than 12 years of imprisonment; he had approached DG (Prisons) for grant of first spell of furlough for 3 weeks; however, the same was declined vide order dated 12.10.2021, which is reproduced hereunder:-

“Whereas, the life convict Sultan @ Rajesh s/o Panna Lal R/o Vilage Palwal, PS Pawal District Bhind, Madhya Pradesh & Village Aadarsh, PS Aadarsh., Distt-Bhind M.P. undergoing life sentence in case FIR No. 315/2009, under Sections 302/392 IPC, PS Jamia Nagar, Delhi was released on emergency on 11.04.2020 for a period of 08 weeks granted by the Dy. Secretary, Home (General) GNCT, New Delhi vide order no. F.18/191/2015/HOME(G) 1489 DATED 09.04.2020 subject to



furnishing personal bond of Rs. 10,000/- to the satisfaction of Superintendent Jail. The same was extended time to time during pandemic of Covid-19.

Whereas, the date of surrender of convict Sultan@ Rajesh s/o Panna Lal was fixed for 28.02.2021, however he failed to surrender on due date and jumped the Emergency Parole and violated terms and conditions of the emergency parole. Thereafter, he was re-arrested by Delhi Police vide DD no. 71A dated 07.09.2021 PS Jamia Nagar and re-admitted in this jail on 08.09.2021.

Now therefore convict Sultan @ Rajesh S/o Panna Lal is hereby directed to deposit Rs. 10,000/- i.e. amount of personal bond executed by him at the time of release, for non-surrender after expiry of emergency parole on 06.03.2021, otherwise necessary action will be initiated against him as per provision/rules.”

1.1 He is aggrieved with the said order and has filed the present petition on the ground that he was granted emergency parole on 11.04.2020 and the same was extended from time to time in view of the Covid-19 pandemic. The petitioner kept on calling jail authorities to know the date of his surrender and he was told that his emergency parole was extended from time to time. The petitioner was further assured that he will be informed well in advance to return back to Jail on the mobile phone of his wife, which he has shared with the authorities and the said phone was working at all times. No such intimation was given to the applicant/petitioner or to his wife. On 07.09.2021, the petitioner was arrested from his work place and kept in the lockup and thereafter he was transferred to jail on the next day. The petitioner was informed that a notice had already been issued by the jail authorities against him for not surrendering on time in jail.

1.2 Earlier on all occasions, the petitioner had surrendered on time as and



when he was released on furlough; the petitioner has to look after his 70 year's old mother his wife and four children; he undertakes to abide by all terms and conditions imposed upon him including a surety upto Rs. 10,000/-. Under these circumstances, it has been prayed that the order dated 12.10.2021 be quashed and respondent be directed to release him on first spell of furlough of three weeks in the interest of justice.

2. Notice was issued. Status report has been filed reiterating the fact that the petitioner/convict was released on 11.04.2020, on emergency parole for a period of 8 weeks granted by Govt. of NCT of Delhi vide order dated no. F.18/191/2015/Home (G)/1489 dated 09.04.2020, subject to furnish personal bond of Rs. 10,000/- to the satisfaction of Superintendent Jail. The same was further extended from time to time during Covid-19 pandemic. Finally the date of surrender of the petitioner/convict was fixed for 28.02.2021. However, he did not surrender in jail on due date and jumped the emergency parole. Thereafter, he was re-arrested by Delhi Police vide DD No. 71-A dated 07.09.2021, PS Jamia Nagar and re-admitted in this jail on 08.09.2021.

3. I have also seen the nominal roll which shows that the petitioner has undergone about 11 years actual incarceration and he has also earned about 2 years remission; the petitioner was given life imprisonment in case FIR No. 315/2009 under Sections 302/392 IPC. Nominal roll shows that as and when the petitioner was granted furlough, he had surrendered on time except when he was granted emergency parole on 11.04.2020 and the same was extended from time to time but he did not surrender after the expiry of the said period. The petitioner has stated that he never had notice of the date on which he was supposed to surrender before the Jail Authorities. No document has been placed on record by the jail authorities to prove that petitioner was



informed about his date of surrender and in spite of that he did not surrender.

4. Keeping in view the above facts and especially the conduct of the petitioner always surrendering on time, except on one occasion, after expiry of the furlough period, I am inclined to quash the order/notice dated 12.10.2021 and to further direct the respondent to release the present petitioner on first spell of furlough of three weeks subject to furnishing of personal bond in the sum of Rs. 10,000/- with one surety of the like amount to the satisfaction of the Jail Superintendent on the following conditions:-

- (i) He shall mark his presence before the SHO, police station Jamia Nagar on every Wednesday between 9 to 10 a.m.;
- (ii) He shall not leave India without permission of this Court;
- (iii) He shall provide his mobile number to the concerned SHO and keep his mobile location app on at all times.
- (iv) He shall surrender before the jail authorities on expiry of the period of his furlough.

4.1. The petitioner be released on furlough on completion of all the formalities which are required to be completed in addition to the above conditions for releasing him on furlough.

5. The writ petition is accordingly disposed of.

6. A copy of this order be sent to Jail Authorities for information and compliance.

TALWANT SINGH, J

JUNE 3, 2022/nk

Click here to check corrigendum, if any