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

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Reserved on:10.07.2023
Pronounced on:12.07.2023

+ **W.P.(CRL) 1257/2023**
MANOJ SIROHI

..... Petitioner

Through: Mr. Rohan J. Alva, Advocate
(DHCLSC).

versus

STATE OF THE NCT OF DELHI Respondent
Through: Mr. Sanjay Lao, Standing
Counsel for the State along
with Ms. Priyam Agrawal,
Advocate and with Insp.
Omvir Dabar, P.S. Bawana.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGEMENT

SWARANA KANTA SHARMA, J.

1. The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 482 Code of Criminal Procedure, 1973 ('Cr.P.C.') for issuance of (i) writ in the nature of certiorari quashing the punishment ticket dated 15.09.2022 and order ref. No.F.10(3475654)CJ/LEGAL/2023/19335/2203 dated 22.03.2023, and (ii) writ in the nature of Mandamus directing the



respondent to release the petitioner on first spell of Furlough for three weeks.

2. Briefly stated, the case of the petitioner is that he had been confined in Central Jail No. 02, Tihar, New Delhi and is serving life sentence, of which he has already served about 15 years in custody. It is stated that petitioner had applied to DG (Prisons) for grant of first spell of Furlough for three weeks on 16.02.2023 however, it was rejected *vide* order dated 22.03.2023. The present petition has been filed before this Court for a grant of Furlough for a period of 21 days on the ground of forging relationships with family and friends.

3. Learned counsel for the petitioner states that respondent has wrongfully issued a punishment ticket dated 15.09.2022 for non-surrender upon expiry of emergency parole. It is further stated that the petitioner was uninformed about the directions passed by the High Powered Committee dated 17.02.2021 whereby his parole extension was rejected. It is stated that the petitioner believed that his emergency parole had been extended due to COVID-19 pandemic, and subsequently, he had himself surrendered before the concerned authorities.

4. On the other hand, learned Standing counsel for the State has opposed the grant of furlough to the present petitioner.

5. Arguments of both sides have been heard and material on record has been perused.

6. As per nominal roll on record, the petitioner herein had been convicted in case arising out of FIR bearing no. 21/2005, registered at Police Station Bawana, Delhi under Sections 302/201/120B/365/34



of IPC. By virtue of order on sentence dated 11.04.2013, the petitioner was sentenced to undergo rigorous imprisonment for life. The appeal filed by the petitioner i.e. CRL.A. 1095/2013 against his conviction was dismissed by this Court *vide* order dated 21.12.2015.

7. This Court notes that in the instant case, the petitioner had filed an application before the DG (Prisons) for grant of furlough on 16.02.2023 for a period of 21 days. However, the same was rejected *vide* order dated 22.03.2023. As per nominal roll, the petitioner has remained in judicial custody for about 13 years and 05 months, with remission earned of about 03 years. The petitioner has been working as a *sahayak* in the jail factory. As per records, the petitioner had earlier been granted parole thrice and had also availed furlough on about 09 occasions and he had always surrendered on time. It was only when the petitioner was released on emergency parole on 03.04.2020 which was extended from time to time and had ultimately expired on 19.02.2021, that he had failed to surrender. However, it has been contended on behalf of petitioner that owing to the circumstances that had arisen due to COVID-19 pandemic, he had remained unaware about the expiry of period of emergency parole, however, he had himself surrendered before the concerned Jail Superintendent on 31.08.2022. As regards the conduct of the petitioner in jail, the only adverse report against him is in relation to a punishment ticket dated 15.09.2022. This Court, however, notes that the said ticket was issued only in relation to late surrender by the petitioner after the expiry of emergency parole granted to him during the period of COVID-19 pandemic.



8. While considering the present petition for furlough, the Court has to remain conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and that he has already remained in incarceration for about 13 years and 05 months. This Court cannot overlook the circumstances and the family exigencies that may have arisen in the family of the petitioner. Needless to say, while dealing with issue relating to grant of furlough to a convict, the Courts are required to balance the interest of convict as well as of the society. However, the Courts are also required to consider cases, such as present one, with sensitivity and compassion, and an opportunity may be provided to a convict to re-establish social ties. In contrast to the retributive, deterrent, and preventive concept of punishment, the reformatory approach could be used as a tool to reclaim the offender, lays an emphasis on rehabilitation so that the offenders are transformed into good citizens.

9. Considering the overall facts and circumstances of the case, the present petition is allowed. The petitioner is granted furlough for a period of 21 days, subject to the following conditions:

- a) The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- with one surety of the like amount, who shall be a family member of the petitioner, to the satisfaction of the Jail Superintendent.
- b) The petitioner shall furnish a telephone/mobile number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also provide his telephone/mobile number to the SHO of the Police Station concerned where the



petitioner shall reside, which as per address mentioned in the Memo of Parties, will be Police Station Galothi, District Bulandshahr, Uttar Pradesh.

c) If the petitioner has a passport, he shall also surrender the same to the Jail Superintendent.

d) He shall surrender before the jail authorities on expiry of the period of his furlough.

e) The period of Furlough shall be counted from the day when the petitioner is released from jail.

10. In above terms, the present writ petition stands disposed of.

11. A copy of this order be sent by the Registry to the Jail Superintendent for information and compliance.

12. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 12, 2023/kss