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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 30th August, 2024***+ **W.P.(CRL)-268/2024 & CRL.M.A. 26041/2024**

PURSHOTTAM CHOPRA Petitioners
Through: Advocate (appearance not given)
versus

STATE (GOVT. OF NCT OF DELHI) Respondents
Through: Mr. Amol Sinha, ASC (Crl) with Mr.
Kshitiz Garg, Mr. Ashvini Kumar and
Ms. Chavi Lazarus, Advocates with
SI Narender, P.S.Vikasपुरी.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. The present Writ Petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure to seek premature release of the petitioner under the Policy dated 16.07.2004 of the Hon'ble LG of NCT of Delhi.
2. It is submitted in the petition that the petitioner had been convicted under Section 302/34 IPC *vide* Judgement dated 30.01.1999 and sentenced to undergo RI for life.
3. The *Appeal bearing Crl. Appeal No.121/1999* filed by the petitioner was dismissed on 23.05.2011 by upholding his conviction and sentence.
4. It is submitted that he has already undergone more than 14 and a half years of sentence and 18 years with remission and is entitled to premature release under the Policy dated 16.07.2004 passed by the Hon'ble LG of NCT of Delhi. The case of the petitioner on premature release has been



rejected under the subsequent Rules of 2018 and not in accordance with the Policy dated 16.07.2004.

5. The petitioner has relied upon Rashidul Jafar @ Chota Vs. State of Uttar Pradesh & Anr in Writ Petition (Crl.) No.336/2019 dated 06.09.2022 wherein vide detailed Judgement, the Court has issued various directions directing that the convicts undergoing life imprisonment shall be considered in terms of the Policy dated 01.01.2018.

6. The Coordinate Bench of the Hon'ble Supreme Court in Sonadhar Vs. State of Chhattisgarh in SLP (Crl.) No.529/2021 dated 07.07.2021 has directed timely identification of eligible convicts, making of the Applications by DLSA, timely disposal of these Applications and provide legal aid to challenge the rejection of premature release application in a court.

7. The Petitioner has placed reliance on Kadir vs. State of U.P., in SLP(Crl.) No. 4358/2021 dated 13.08.2021, Raj Kumar vs. State of U.P., in W.P.(Crl.) No. 36/2022 dated 05.01.2023, Joseph vs. State of Kerala & Ors., W.P.(Crl.) No. 520/2022 dated 21.09.2023, Subhash Chander & Ors. vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3131/2023 dated 20.10.2023, Naeem @ Naimuddin & Ors. vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3457/2023 dated 23.11.2023, and Rahul @ Budh Prakash & Ors. vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3426/2023 dated 21.11.2023, wherein the Courts while considering the case of petitioners has passed interim orders extending the furlough granted to the petitioners.

8. The Petitioner has placed reliance on Raja Ram vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3780/2020 dated 20.12.2023, Ombir vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3800/2023 dated 21.12.2023, Moti @ Mohit vs. State (Govt. of NCT of Delhi), in W.P.(Crl.)



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No. 3803/2023 dated 22.12.2023, Surender Kumar vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No.3820/2023 dated 04.01.2024, Mohd. Shakeel vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 34/2024 dated 04.01.2024, Vikram Yadav vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No.24/2024 dated 05.01.2024, Usman vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 57/2024 dated 05.01.2024, and Sonu vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 3762/2023 dated 09.01.2024, to argue that the Courts in similar circumstances, had granted exemption from surrendering.

9. The petitioner has placed reliance on Rani @ Manju vs. State (Govt. of NCT of Delhi), in W.P.(Crl.) No. 72/2024 dated 08.01.2024 wherein the Court while allowing the petition, has held that instead of Premature Release as per Policy/Rule 2018, the petitioner's case should be considered for premature release as per the Policy which was in vogue, i.e. 16.07.2004, at the time of conviction of the petitioner from the Trial Court.

10. The Petitioner has sought that the State may be directed to consider his case for Premature Release under the Policy dated 16.07.2004. Furthermore, a Prayer is made that the Furlough granted to the petitioner by the Jail Authorities, which expires on 29.01.2024, be extended till further Orders.

11. Submissions heard.

12. In the present case, the petitioner had been convicted for the offences punishable under Sections 302/34 of Indian Penal Code, 1860 *vide* Judgment dated 30.01.1999 and Order of Sentence dated 02.02.1999 directing the petitioner to undergo RI for life. This Court dismissed the Appeal of the petitioner on 23.05.2011 *vide* Crl. Appeal No. 121/1999 and upheld the conviction and sentence of the petitioner.

13. In Joseph vs. The State of Kerala & Ors., 2023 SCC OnLine SC 1211,



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the Apex Court after referring to various judgments, reiterated the proposition of law that Remission Policy prevailing on the date of conviction of a convict, shall be applied in a given case and if a more liberal Policy exists on the day of consideration for the case of Premature Release, then such liberal Policy shall apply.

14. In view of the decision in Joseph (supra), it is evident that the petitioner is entitled to be considered under this Policy of 2004 for his premature release.

15. The *second aspect* for consideration is that the Apex Court in its Order dated 11.12.2023 while giving liberty to the petitioner to approach this Court, had granted interim protection of four weeks. Thereafter, the present petition has been filed before this Court and the interim protection of the petitioner is being extended from time to time.

16. In the case of Rashidul Jafar @ Chota vs. State of U.P. decided *vide* W.P.(CRL) 336/2019 on 06.09.2022, the interim protection of bail was extended by the Apex Court to the convicts undergoing life imprisonment who had already been released on bail pending disposal of their Application for premature release, till their case is considered afresh by SRB.

17. Similar facts as in hand, also got recently considered by the Co-ordinate Bench of this Court in Rani @ Manju (supra), whereby considering that the interim protection of two weeks had been granted to the petitioner till his petition for premature, similar benefit was extended by another period of 15 days to the petitioner.

18. Since the petitioner had been released on Furlough which has been extended from time to time and considering that his wife has expired on 29.08.2024, the petitioner has sought extension of Furlough by six weeks. It is



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hereby directed that the Furlough be extended for six weeks on the following terms and conditions:

- I. The petitioner shall furnish a personal bond in the sum of Rs.20,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent.
 - II. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM during the period of furlough.
 - III. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of local police station, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.
 - IV. The petitioner shall ordinarily reside at the address mentioned in the petition.
 - V. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
 - VI. The period of furlough shall be counted from the day when the petitioner is released from jail.
19. It is also directed that the Application for remission be considered preferably within six weeks in accordance with the Premature Release Policy dated 16.07.2004.
20. The Petition is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 30, 2024/PT