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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 369/2024**
JITENDER SINGH Petitioner
Through: **Mr.Rohan J. Alva, Adv.**
(DHCLSC)

versus

THE STATE (GOVT. OF NCT) OF DELHI Respondent
Through: **Mr.Jasraj Singh Chhabra, Adv.**
for Ms.Nandita Rao, ASC (Crl.)
SI Sonu Kumar, PS Sultan Puri

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

29.02.2024

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1. This petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the Order dated 27.09.2023 (hereinafter referred to as the 'Impugned Order'), passed by the Director General of Prisons, Prison Headquarters, Tihar, Delhi (hereinafter referred to as the 'DG') rejecting the application of the petitioner seeking grant of furlough for three weeks.

2. The learned DG, by the Impugned Order, rejected the application of the petitioner seeking grant of furlough, by observing as under:

"1. The said prisoner is not fulfilling criteria referred in Para 1224(iii) of Delhi Prison Rules 2018 for grant of furlough as the said convict was released on emergency parole w.e.f. 16.05.2021 to 14.08.2021 and further



extended time to time till 06.04.2023 but he jumped emergency parole and re-arrested on. 05.06.2023.”

3. The respondent has reiterated that the petitioner was released on emergency parole vide Order dated 14.05.2021 on 16.05.2021. The same was initially for a period up to 14.08.2021, but was extended as per the Orders of the Supreme Court of India from time to time, till 07.04.2023.

4. It is asserted that the petitioner did not surrender on 07.04.2023, and jumped the emergency parole. He was re-arrested only on 05.06.2023. For the offence of jumping the emergency parole, punishment of suspension of his *mulakat* and phone call facility for a period of 15 days was imposed upon him.

5. Placing reliance on the Rules 1223 and 1224 of the Delhi Prison Rules, 2018, the learned counsel for the respondent submits that as the conduct of the petitioner was not ‘good’ and he had absconded while being released on emergency parole, he is not entitled to the grant of furlough.

6. On the other hand, the learned counsel for the petitioner submits that the petitioner has already served a period of more than 14 years in custody. He submits that there was a general confusion regarding the date of surrender of the convicts who had been released on emergency parole due to the outbreak of Covid-19. He submits that the petitioner was under the impression that he shall be informed of the date on which he has to surrender. As no such information was received, he did not surrender on 07.04.2023. He was called to the Police Station



on 05.06.2023, where he went voluntarily, however, was arrested. He submits that, therefore, the failure of the petitioner to surrender on time was neither intentional nor deliberate. Placing reliance on various judgments of this Court, he submits that, in similar circumstances, the Court has held that the convict cannot be denied furlough for the above reasons.

7. The learned counsel for the petitioner submits that the permanent address of the petitioner has also been verified by the respondent and a status report in this regard dated 25.02.2024, has been filed by the respondent.

8. I have considered the submissions made by the learned counsels for the parties.

9. It is apparent that the petitioner was released on emergency parole vide Order dated 14.05.2021 on 16.05.2021. The period of emergency parole was 90 days, however, was extended from time to time as per the Orders of the Supreme Court. He was eventually to surrender on 07.04.2023. The petitioner claims that he was called to the Police Station only on 05.06.2023, on which the petitioner, wilfully, and without any protest, reported to the Police Station and was arrested. There appears to be some confusion in the mind of the petitioner as to the exact date on which he was required to surrender.

10. The Nominal Roll of the petitioner indicates that he has already undergone the custody of more than 14 years counted without any remission. He has earlier been released on furlough on a number of occasions and there is no complaint made against him of ever misusing the indulgence so granted, except for when he surrendered



just one day late on 03.09.2003, that is, around 20 years back.

11. This Court cannot overlook the circumstances and the family exigencies that may have arisen in the family of the petitioner. While dealing with the issue relating to furlough, the Court is required to balance the interest of the convict as well as of the society. The Court has to proceed with sensitivity and compassion and grant an opportunity to the convict to re-establish the social ties.

12. Considering the overall circumstance of the case, the Impugned Order dated 27.09.2023 is hereby quashed. The petitioner is granted furlough for a period of 21 days subject to the following conditions:

- i. 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;
- ii. 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: Sultan Puri, Delhi;
- iii. If the petitioner has a passport, he shall also surrender the same to the Jail Superintendent;
- iv. He shall surrender before the jail authorities on expiry of the period of his furlough; and,
- v. The period of Furlough shall be counted from the day when



the petitioner is released from jail.

13. The present writ petition is disposed of in the above terms.
14. A copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

FEBRUARY 29, 2024/ns/ss

Click here to check corrigendum, if any