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

% **Date of Decision : 14.03.2024**

+ **W.P.(CRL) 523/2024**

MANOJ

..... Petitioner

Through: Mr. Sunil Upadhyay, Mr. Mohit
Chaurasia and Ms. Suchetan,
Advocates

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Amol Sinha, ASC for the State.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANATA SHARMA, J (ORAL)

1. The instant petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking 1st Spell of furlough for a period of three weeks in case FIR bearing No. 81/2010, registered at Police Station Sadar Bazar, Delhi for the offences punishable under Sections 302/34 of the Indian Penal Code, 1860 ('IPC') and further challenging the order/communication dated 25.01.2024 passed by respondents declining the furlough of the petitioner.

2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 13.03.2019, the petitioner was convicted



under Sections 302/34 of the Indian Penal Code, 1860 (‘IPC’) and Section 27 of the Arms Act, 1959 in case arising out of FIR bearing No. 81/2010, registered at Police Station, Sadar Bazar, Delhi and was sentenced to undergo imprisonment for life by the learned Additional Sessions Judge, Tiz Hazari Courts, Delhi. His appeal against conviction i.e., CRL.A. 619/2019 was dismissed by this Court *vide* judgment dated 06.11.2019.

3. Learned counsel for the petitioner states that the competent authority has denied furlough to the petitioner on the ground that he had not surrendered after expiry of parole granted to him from 17.05.2020 to 11.07.2020, thereafter extended time to time. It is submitted that however, the petitioner was re-arrested on 04.11.2020 in case arising out of FIR bearing No. 255/2020, for offences punishable under Sections 308/34 of IPC. It is contended that the petitioner is in judicial custody for last 14 years and as per Rule 1220 of Delhi Prison Rules, 2018 the petitioner is entitled to grant of furlough. It is further submitted that as per Rule 1220 of the Delhi Prison Rules, 2018 a prisoner who is sentenced to 5 years or more of rigorous imprisonment for life and has undergone 3 years imprisonment after conviction with unblemished record becomes eligible for grant of furlough. In this regard, it is stated that the petitioner has already undergone 13 years’ incarceration and has good jail record. It is also submitted that the petitioner seeks furlough to maintain social ties, as petitioner is having his wife and old parents to support. Therefore, the petitioner be granted furlough as prayed for.

4. *Per contra*, learned ASC for the State submits that the petitioner was denied furlough on the ground that he had not surrendered on time i.e., after



expiry of parole granted to him from 17.05.2020 to 11.07.2020, however, he was re-arrested on 04.11.2020 in case arising out of FIR bearing No. 255/2020, under Sections 308/34 of IPC, the present petitioner had violated terms of parole granted to him earlier and is likely that the petitioner violates the terms of furlough if granted. Therefore, the present petition be dismissed.

5. This Court has heard arguments on behalf of both the parties and has perused the material placed on record.

6. The application filed by the petitioner for release on furlough was rejected *vide* order dated 25.01.2024, by the competent authority, on the following grounds:

“This is in reference to the application for grant of furlough to convict Manoj s/o Ashok Kumar:

In this regard, I am directed to Inform you that the Competent Authority has considered the application for grant of furlough and same has been declined this stage for the following reason(s):-

1 He was released on Emergency Parole w.e.f. 17.05.2020 to 11.07.2020 by DG(Prisons) and extended time to time but the above said convict was re-arrested. on 04.11.2020 in another case FIR No. 255/2020, u/s 308/34 IPC, PS-Sadar Bazar. He has violated conditions of maintaining peace and good behaviour during his period of release on Emergency Parole.

2 Superintendent jail has not recommended his application for grant of furlough,

The convict may be informed under proper acknowledgement”.

7. Thus, the application for grant of furlough filed by the petitioner has



been rejected on the ground that while on parole he had been rearrested in another case as per the rejection order.

8. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 provide insight as to what objects are achieved by releasing a convict on parole. The said rules read as under:

“1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:

- i.) To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self-confidence,
- iii. To enable him to develop constructive hope and active interest in life,
- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and vii. To motivate him to maintain good conduct and discipline in the prison...”

9. Further, Rule 1223 provides criteria in which a prisoner can be released on furlough. The said rule reads as under:

“1223. In order to be eligible to obtain furlough, the prisoner must fulfil 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.
- ii. The prisoner should not be a habitual offender.
- iii. The prisoner should be a citizen of India.”

10. While considering the present writ petition for grant of furlough, the Court also has to remain conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and that as per the Nominal Roll, he has already remained in incarceration for almost 13 years and 03 months excluding remission of about 01 years 05 months and 02 days. As regards the overall jail conduct of the petitioner, it has been reported as satisfactory as per the nominal roll. However, this Court cannot overlook the fact that petitioner has been granted parole twice after being re-arrested and that the petitioner had never misused the liberty granted to him. Moreover, the conduct of the petitioner in jail has been satisfactory for last one year and he has also not been awarded any punishment, and he has been working as a *Factory Sahayak* in jail.

11. Thus, considering that the record maintained by the prison authorities itself reveals that the petitioner's conduct in the previous year is satisfactory and no punishment has been awarded to him, this Court is inclined to grant furlough to the present petitioner for a period of three (03) weeks from the date of his release, on 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, 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. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
 - v. The period of furlough shall be counted from the day when the petitioner is released from jail.
12. In above terms, the present petition stands disposed of.
13. A copy of this order be sent by the Registry to the Jail Superintendent concerned.
14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 14, 2024/zp

Click here to check corrigendum, if any