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

+ W.P.(CRL) 732/2024

DINESH KUMAR

..... Petitioner

Through: Mr. Siddharth Yadav &
Mr. Nageshwar Kumar,
Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Amol Sinha, ASC
(Crl.) for the State with
Mr. Kshitiz Garg, Mr.
Ashvini Kumar & Ms.
Chavi Lazarus, Advs.
Inspector Mangesh Tyagi,
ARSC/ Crime Branch

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

07.03.2024

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1. The present writ petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC'), seeking grant of first spell of furlough for a period of three weeks in FIR No. 256/2010, for offences under Sections 363/364A/302/201/120B/34 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Vikas Puri, on the ground that the marriage of petitioner's Brother-in-law is to take place on 11.03.2024.

2. The petitioner was convicted by the order dated 17.07.2019 passed by the learned Additional Sessions Judge-03, Tis Hazari Courts, Delhi for offences punishable under Sections 364A/302/201 of the IPC and by order on sentence dated 05.09.2019, the petitioner was sentenced to undergo life imprisonment along with fine of ₹1,20,000/-, and in default, to further undergo simple imprisonment for one year. The Nominal



Roll indicates that the petitioner has already spent almost 13 years in custody.

3. The learned counsel for the petitioner submits that the petitioner had filed an application seeking grant of furlough on the ground that the marriage of his Brother-in-law is scheduled for 11.03.2024, but the same was rejected by the respondent authority by order dated 04.03.2024 stating that the petitioner was not eligible to avail the benefit of furlough as per Rule 1212 of the Delhi Prison Rules, 2013. Rule 1212 of the Delhi Prison Rules, 2013 reads as under:

“A convict would be released on parole for a period of maximum eight weeks in minimum two spells in a conviction year. However, the period of release in one spell should not be more than four weeks. There should be one month gap between parole and last furlough availed and vice-versa.

Note:-

(1) If the convict has applied for extension after surrendering from the original parole or his application for parole is pending decision when he surrendered after availing original parole then his case will be considered as fresh case.

(2) Simultaneous parole to co-accused is ordinarily not permissible, however, in exceptional circumstances competent authority may consider for reasons in writing for granting parole to co-accused who are family members.”

4. The learned counsel for the petitioner submits that the petitioner was released on parole in the month of January, 2024 pursuant to order dated 23.01.2024 passed by the coordinate Bench of this Court.

5. He submits that he had applied for the said parole in the month of December, 2022 before the respondent authority however, the same was rejected, which led the petitioner to file a petition seeking parole before this Court.

6. It is not denied that every convict, subject to satisfaction of



the provisions of the Delhi Prison Rules, 2013 is eligible for three spells of furlough (three weeks, two weeks and two weeks respectively), and two spells of parole (four weeks each respectively).

7. It is also not disputed that the petitioner could not avail the collective five spells of furlough in the year 2022 or in the year 2023.

8. The petitioner had applied for parole in the month of December, 2022, which was finally granted in the month of January, 2024. The delay caused either by the respondent authority or by this Court for extending the relief, which the petitioner was admittedly entitled for, could not be used as an excuse to the detriment of the petitioner.

9. It is not disputed that the petitioner is entitled for five spells of furlough. The petitioner was eligible for the same this time also but was not granted in view of Rule 1212 of the Delhi Prison Rules, 2013.

10. Rule 1212 of the Delhi Prison Rules, 2013 specifically notes that the convict is entitled to apply for extension of the parole even after he has surrendered pursuant to the original parole. Note to Rule 1212 of the Delhi Prison Rules, 2013 reads as under:

“Note:-

(1) If the convict has applied for extension after surrendering from the original parole or his application for parole is pending decision when he surrendered after availing original parole then his case will be considered as fresh case.

(2) Simultaneous parole to co-accused is ordinarily not permissible, however, in exceptional circumstances competent authority may consider for reasons in writing for granting parole to co-accused who are family members.”

11. The learned counsel for the petitioner submits that he has no objection if the present application for the grant of furlough is



treated as an application for his release on parole.

12. As noted above, Note (1) of Rule 1212 categorically provides that if the convict applies for extension after surrendering from the original parole, his case can be considered as a fresh case.

13. Considering the fact that the petitioner has no objection if his application can be treated as an application for parole, this Court is of the opinion that the petitioner can be directed to be released on parole for a period of four weeks and the same can be treated as an extension of the parole granted on an earlier occasion by the coordinate Bench of this Court by the order dated 23.01.2024.

14. In view of the above, the present petition is allowed and the petitioner is directed to be released on parole for a period of four weeks, subject to the following conditions:

- i. The petitioner shall furnish a personal bond in the sum of ₹10,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent.
- ii. The petitioner shall surrender his passport, if any, to the Jail Superintendent before his release.
- iii. The petitioner shall report to the SHO of the local area, once a week on every Sunday at 10:00 AM and shall not leave the National Capital Territory of Delhi during the period of parole.
- iv. The petitioner shall furnish his mobile number to the Jail Superintendent as well as to the SHO of the concerned Police Station on which he can be contacted if required. The said mobile number shall be kept active and operational at all times by the petitioner.
- v. The petitioner shall not indulge in any criminal activity



during the period of parole.

- vi. Immediately upon the expiry of period of parole, the petitioner shall surrender before the concerned Jail Superintendent.
 - vii. During this period, co-accused will not be released on parole/furlough.
 - viii. The period of parole shall commence from the date of actual release of petitioner.
15. A copy of this order be sent to the Jail Superintendent for information and necessary compliance.

AMIT MAHAJAN, J

MARCH 7, 2024
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