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

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Reserved on: 21.05.2024
Pronounced on: 30.05.2024

+ **W.P.(CRL) 1162/2023**

RAKESH

..... Petitioner

Through: Mr. Ashutosh Kaushik
(DHCLSC) with Mr. Uday
Sondhi & Mr. Aishwary
Jaiswal, Advocates.

versus

STATE (NCT. OF DELHI)

..... Respondent

Through: Ms. Nandita Rao, ASC for the
State. Inspector Vinit Malik,
P.S.: Anand Parbat.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present writ petition under article 226 of Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by the petitioner seeking release on furlough for a period of three weeks.

2. The petitioner herein is presently confined in Central Jail No. 14, Mandoli, Delhi, who was convicted in case arising out of FIR No. 62/2002, registered under Sections 302/392/394/397/34 of Indian Penal Code, 1860 and Sections 25/27(I)/54/59 of Arms Act, at P.S.



Anand Parbat, Delhi. He was awarded sentence of rigorous imprisonment for life for offence under Section 302/34 of IPC, rigorous imprisonment for seven years for offence under Section 397 of IPC and rigorous imprisonment for seven years for offence under Section 27(I) of Arms Act by the learned Trial Court. His appeal against conviction i.e. CRL.A.160/2013 was dismissed by this Court of Delhi on 18.12.2015. Thereafter, SLP filed by the petitioner was also dismissed by the Hon'ble Apex Court.

3. While praying for grant of furlough on behalf of the petitioner, learned counsel for petitioner states that the petitioner had applied to DG prison for grant of furlough on 27.02.2023. However, the same was dismissed *vide* order dated 22.03.2023 passed by the competent authority. It is stated that the competent authority has failed to appreciate that the petitioner had been released on furlough on 13 occasions and he had never misused the liberty granted to him. It is also stated that the petitioner has undergone more than 20 years of actual custody and maintaining social ties is very important for him. It is stated that three years have already elapsed since the petitioner had jumped the furlough granted to him in January 2020 and he was re-arrested, and that his conduct has been satisfactory since last three years and he is working in the jail as Library *Sahayak*. Therefore, it is prayed that present petition be allowed.

4. Learned ASC for the State, on the other hand, states that the petitioner's application for furlough has been rightly rejected by the competent authority since he had jumped furlough which was granted



to him January, 2020, and there is apprehension that he may abscond again if he is granted furlough.

5. This Court has heard arguments addressed by learned counsel for the petitioner and learned ASC for the State, and has perused the material placed on record.

6. The impugned order dated 22.03.2023 passed by the competent authority reads as under:

“This is in reference to the application for grant of furlough to convict Rakesh s/o Om Prakash.

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 for the following reason(s):-

1) As per Rule 1224(iii) of Delhi Prison Rules 2018 - The prisoner who absconded while released on parole or furlough shall not be eligible to be released on furlough. The convict was released on furlough w.e.f. 02.01.2020 to 24.01.2020 but jumped furlough and re-arrested on 18.11.2020 in another case.

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

7. Thus, petitioner's application for grant of furlough has been rejected on the ground that he had absconded while he was released on furlough, and was re-arrested in another case, and thus, he will not be entitled to grant of furlough as per Rule 1224(iii) of Delhi Prison Rules, 2018.

8. This Court has gone through the record and it is not disputed that he had jumped furlough which was granted to him in January 2020 and was arrested after 10 months of the expiry of date of surrender in another case on 18.11.2020. However, he was released



in the said case on 19.11.2020 i.e. the next day. This Court has also gone through the nominal roll of the petitioner. The petitioner has undergone actual custody of 21 years without remission, and about 24 years if remission is taken into account. As per nominal roll, the conduct of the petitioner has been satisfactory for last one year, and the overall conduct is also satisfactory, except one punishment awarded to him in January 2021, due to his act of absconding after being released on furlough. However, it is also a matter of record that the petitioner has now earned three Annual Good Conduct Reports on 01.12.2021, 01.12.2022 and 01.12.2023, and thus, he satisfies Rule 1223 of Delhi Prison Rules which provides the general eligibility criteria for grant of furlough.

9. The nominal roll also reveals that the petitioner has been working as Library *Sahayak* for the last 14 years in the jail. Further, he had earlier been released on parole on 07 occasions and on furlough on 12 occasions when he had not misused the liberty granted to him.

10. This Court recognizes that the well-being of prisoners is crucial and that granting furlough or parole to those incarcerated for long periods is important. These measures undoubtedly help prisoners maintain family and social ties, address personal issues, and build self-confidence and hope, which are essential for their psychological health and successful reintegration into society. Parole and furlough also provide temporary relief from the stresses of long-term incarceration, and positively impacts their physical and mental well-being.



11. Therefore, considering the overall facts and circumstances, this Court is inclined to grant furlough to the petitioner for a period of three (03) weeks on the following terms and 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.
- 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, and he shall not leave NCT of Delhi during the period of furlough.
- 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 judgment be forwarded to the concerned Jail Superintendent for information.
14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 30, 2024/at