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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1008/2024**

SHIV KUMAR @ SHIBU

..... Petitioner

Through: Mr. Rajneesh Bhaskar & Mr. Rachit
Raushan, Advocates.

Versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Amol Sinha, ASC (Crl.) for
the State with Mr. Kshitiz Garg, Mr.
Ashvini Kumar, Ms. Soumya Jha, Mr.
Hari Om Thakur & Mr. Bal Kishan
Gupta, Advocates.
Insp. Dharmender Kumar, P.S.
Jahangir Puri.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

22.04.2024

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1. The present petition under Articles 226 and 227 of the Constitution of India read with Section 482 of the Cr.P.C. seeks the following prayers:

- “a) Allow the present Petition and issue a writ in the nature of Mandamus directing the respondent to release the petitioner on Furlough for a period of 3 (Three) weeks from the date of his release; and/or
b) Pass any other order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The present petitioner was convicted for offences under Sections 302/341/34 of the IPC *vide* judgment dated 26.03.2019 and further sentenced *vide* order on sentence dated 27.03.2019 to undergo Rigorous



Imprisonment for life and a fine of Rs. 20,000/- and in default Simple Imprisonment for 9 months under Sections 302/34 of the IPC and Rigorous Imprisonment for 1 month under Sections 341/34 of the IPC in case FIR No. 269/2014, registered at P.S. Jahangir Puri.

3. Learned counsel appearing on behalf of the petitioner submits that the latter's father had passed away on 02.08.2023 and since then, the petitioner has not been able to meet his family members. It is further submitted that the application seeking furlough has been declined by the Competent Authority on 28.02.2024 on the ground of non-fulfillment of the criteria referred in Rule 1224(iii) of the Delhi Prison Rules, 2018, as the petitioner was released on parole on 07.07.2021 and was supposed to surrender on 22.07.2021; however, he had jumped the parole and surrendered himself on 12.12.2022.

4. Learned counsel for the petitioner further submits that perusal of the Nominal Roll of the latter reflects that on account of the aforesaid conduct, he was warned by the Jail Superintendent and was not given any punishment as the explanation given by the petitioner was accepted.

5. Learned Additional Standing Counsel for the State submits that the furlough of the present petitioner has rightly been rejected on account of the fact that the present petitioner had not surrendered within time on the expiry of the aforesaid parole.

6. Heard learned counsel for the parties and perused the record.

7. As per Nominal Roll dated 12.03.2024 received from the concerned Jail Superintendent, it is reflected that as on 08.03.2024, the petitioner has undergone an imprisonment of 07 years 05 months and 09 days and his conduct for the last one year is found to be satisfactory. The petitioner had been granted parole on previous occasions and he had surrendered in time



except on the last occasion, i.e., in the year 2021.

8. Status report dated 20.04.2024, authored by Insp. Arun Kumar, SHO, P.S. Jahangir Puri, has been placed on record, wherein address of the petitioner, i.e. G-1598, Jahangir Puri, Delhi, has been verified and the factum of the death of the petitioner's father has also been verified.

9. In totality of the facts and circumstances, the present petition is allowed. The petitioner is enlarged on furlough for a period of three weeks from the date of release, subject to furnishing a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the Jail Superintendent, subject to following conditions:

i. During the period the petitioner remains out on furlough, the petitioner shall report to the SHO, P.S. Jahangir Puri, Delhi, on every Saturday, at 12 noon, and will not be kept waiting for more than an hour.

ii. The petitioner shall also provide the SHO, P.S. Jahangir Puri, Delhi with mobile telephone number which shall be kept in working condition at all times and he shall not switch off or change the mobile number without prior intimation to the SHO concerned. The mobile location be kept on at all times.

iii. The status report dated 20.04.2024 reflects that the petitioner resides at G-1598, Jahangir Puri, Delhi. In case of any change of address, the petitioner is directed to inform the Investigating Officer and the concerned learned Trial Court.

iv. The petitioner shall not leave the National Capital Territory of Delhi during the period of furlough, without the prior permission of this Court.

v. The petitioner shall not indulge in any criminal activity and shall not



communicate with or come in contact with the complainant/victim or any member of the complainant/victim.

vi. The petitioner is directed to surrender before the jail authorities at the expiry of the period of furlough.

10. The petition is allowed and disposed of accordingly.

11. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

12. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

APRIL 22, 2024/bsr

Click here to check corrigendum, if any