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

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***Reserved on: 03.05.2024
Pronounced on: 10.05.2024***+ **W.P.(CRL) 1293/2024****JEET DAHIYA**

..... Petitioner

Through: Ms. Neha Kapoor, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amol Sinha, ASC for the
State with SI Satender Kumar,
NR-II/Crime Branch, Mr.
Kshitiz Garg, Mr. Ashvini
Kumar and Ms. Chavi
Lazarus, Advocates**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. By way of present writ petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C. '), the petitioner seeks appropriate order in the nature of mandamus directing the respondent to release the petitioner on parole for a period of four weeks starting from 26.04.2024.



2. The petitioner is presently lodged in Central Jail No. 3, Tihar, New Delhi. By way of judgment dated 09.02.2018 passed by the learned Additional Sessions Judge, Rohini Courts, Delhi, the petitioner herein was convicted in FIR No. 862/2016 for offences punishable under Sections 302/120B/34 of the Indian Penal Code, 1860 ('IPC') and Sections 25/27 of the Arms Act, 1959 and had been sentenced to undergo rigorous imprisonment for life. Thereafter, the petitioner had challenged the said judgment before this court i.e., CRL. A.393/2018 and this Court *vide* judgment dated 26.06.2023 had dismissed the said appeal. However, with the modification that the sentence of the appellant be modified to imprisonment for life with minimum 20 years actual imprisonment without any remission. The petitioner has not preferred SLP against the judgment of this Court.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner was granted furlough by the competent authority on 01.03.2024 and was required to surrender on 26.04.2024. However, during the pendency of the present writ petition, this Court *vide* order dated 26.04.2024 had exempted the petitioner from surrendering till the next date of hearing i.e., 03.05.2024. The petitioner is now seeking parole on the ground that his mother-in-law is hospitalized who has kidney ailment and that one kidney may be required to be removed by way of surgery. Moreover, his wife and sister-in-law are busy with the mother-in-law in the hospital as they need to regularly take care of her. The brother of the petitioner also has responsibility of taking care of his infant daughter. Thus, the petitioner seeks parole on the ground that he has to take care of his



daughters, aged about 6 and 8 years respectively, in the absence of his wife and sister-in-law. It is further argued that the petitioner has completed more than 7 years of his sentence. Moreover, the conduct of the petitioner as per the nominal roll is good and that he has never been awarded any punishment ticket and has never misused the liberty of parole/furlough granted to him. Thus, it is prayed that the present petition be allowed and the petitioner be released on parole.

4. On the other hand, learned ASC appearing on behalf of the State opposes the present petition and on instructions, states that the fact that petitioner's mother-in-law is hospitalized has been verified. However, it is submitted that the petitioner has other family members to take care of his mother-in-law and petitioner's wife can take care of his children. Therefore, it is prayed that the present petition be dismissed.

5. This Court has heard arguments addressed by learned counsel for the petitioner as well as learned ASC for the State and has gone through the material placed on record.

6. In the present case, the petitioner's application by virtue of which he had sought furlough from the respondent was allowed, *vide* order dated 01.03.2024 by the competent authority. The said order is reproduced as under:

“In this regard, I am directed to Inform that the Competent Authority (Prisons) has considered and pleased to grant 1st spell of Furlough to the above named convict for a period of Three Weeks from the date of his release subject to the following conditions:-



1. That he shall furnish Two surety of Rs.10,000/- (Rupees Ten Thousand Only) each along with a personal bond in the like amount for his release on Furlough to the satisfaction of the Superintendent, Central Jail No. 3, Tihar, New Delhi.

2. That he shall maintain peace and good behaviour during his period of release on Furlough.

3. That he will remain at Delhi during the period of his release on Furlough and his ordinary place of residence shall be: H. No. 149, Block-H, Pocket-2, Sector-16, Rohini, Delhi.

4. That he shall report at least once in a week to Police Station under which his ordinary place of residence falls, during the period of his release on furlough.

5. That he shall surrender to the Superintendent, Central Jail No. 3, Tihar, New Delhi on the expiry of his period of release on furlough.”

7. Having gone through the contents of the nominal roll placed on record, this Court notes that the petitioner herein has spent 7 years and 2 months in judicial custody without any remission. Further, this Court takes note of the fact that the petitioner herein was released on 1st spell of furlough by the competent authority *vide* order dated 01.03.2024 and he was to surrender on 26.04.2024. Thereafter, the petitioner had filed a writ petition before this Court seeking parole and this Court *vide* order dated 26.04.2024 was pleased to exempt the petitioner from surrendering till the next date of hearing.

8. This Court is of the opinion that the present petition for grant of parole to the petitioner is on the ground that the petitioner has to take care of his minor children, as his wife has to take care of his mother-in-law as she has been hospitalized. This contention deserves to be rejected on the ground that there are other family members to



take care of the mother-in-law of the petitioner herein. Moreover, as per Rule 1212 of the Delhi Prison Rules, 2018, there has to be at least one month gap between parole and last furlough availed and vice versa. In the present case, the petitioner was granted furlough on 01.03.2024 and has been on furlough till 26.04.2024. Thereafter, he had immediately applied for Parole which is in contravention of Rule 1212 of the Delhi Prison Rules, 2018. Thus, there is no ground to grant parole to the petitioner herein.

9. The present writ petition is dismissed along with pending applications, if any.

10. Copy of this judgment be sent to the concerned jail superintendent for information.

11. The Judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 10, 2024/A