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

+ **W.P.(CRL) 1904/2023**

MOHD. SABBIR @GAGGU

..... Petitioner

Through: **Mr. Ajay Kumar, Adv. (through V/C).**

versus

STATE NCT OF DELHI

..... Respondent

Through: **Mr. Amol Sinha, ASC (Crl.) for State with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Ms. Chavi Lazarus and Mr. Arjun Singh Kadian, Advs. Inspector Sachin Kumar Verma, PS Krishna Nagar.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

10.01.2024

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1. The instant application 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 petitioner seeking issuance of writ of certiorari quashing Order No. F.10 (003725134)/CJ/Legal/PHQ/2023/3863. dated 02.06.2023 passed by the respondent; and/or issuance of writ in the nature of mandamus directing respondent to release the petitioner on furlough for a period of three (03) weeks.

2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 22.03.2018, the petitioner was convicted under Sections 396/412 of the Indian Penal Code, 1860 ('IPC') in case arising out of FIR bearing no. 56/2011, registered at Police Station, Krishna



Nagar, Delhi and was sentenced to undergo rigorous imprisonment for life in addition to payment of fine of Rs. 30,000/- and in default of payment of fine to undergo simple imprisonment for two years by the learned Additional Sessions Judge, Karkardooma Courts, Delhi. His appeal against conviction i.e., CRL.A. 568/2018 is pending before this Court.

3. The petitioner seeks parole for a period of three weeks for establishing social and family ties and to curb inner stress.

4. Learned counsel appearing on behalf of the respondent draws this Court's attention to the fact that the petitioner's case is a category case in view of Rule 1225 of the Delhi Prison Rules, 2018 and the same needs to be recommended by the Dy. Inspector General (Prisons). However, the same was not recommended by the concerned authority. Henceforth, the said writ petition be dismissed.

5. On the other hand, learned counsel for the petitioner states that rejection order by the respondent is contrary to the basic tenets of law. It is stated that the only reason for dismissal of the application of the petitioner for grant of furlough is that it is a special category case and needs the recommendation of the concerned authority. However, the concerned authority has not complied with Rule 1225(ii) of the Delhi Prison Rule, 2018 while deciding the application of the petitioner. Therefore, the rejection order be set aside and the petitioner be released on furlough as prayed for.

6. This Court has heard arguments addressed on behalf of learned counsel for petitioner as well as learned ASC for the State and has gone through the material available on record.



7. The application filed by the petitioner for release of furlough was rejected *vide* order dated 02.06.2023 by the respondent/competent authority, on the following ground:

“As this being the category case in view of Rule-1225 of Delhi Prison Rules 2018 and same needs to be recommended by Dy. Inspector General (Prisons). However, the same was not recommended by Dy. Inspector General (Prisons) on account of broad day light crime, objection by police and analysis by probation officer of convict’s propensity to commit crime again.

The convict may be informed under proper acknowledgement”.

8. Thus, the application for grant of furlough filed by the petitioner has been rejected on the ground that in view of the application being a category case as per Rule 1225, Delhi Prison Rules, 2018 the same had been rejected by the concerned authority.

9. This Court has gone through Rule 1225 of the Delhi Prison Rules, 2018 which is reiterated as under:

“1225. That the prisoners convicted of murder after rape, under POCSO Act, convicted for multiple murders whether in single case or several cases, Dacoity with murder and murder after kidnapping for ransom, may be considered by the competent authority on the following parameters: -

(i) Deputy Inspector General (Range) of prisons shall put specific recommendation for considering the said case.

(ii) Social Welfare/ Probation officer's report/recommendations shall be considered while deciding such furlough application.

(iii) Subject to the conditions/ rules mentioned in Rule 1221 to Rule 1223 above, the spell of furlough for such category would be as follows:

(a) only one spell of 3 weeks in first year of eligibility.

(b) only two spells of furlough, one for 3 weeks and other for 2 weeks in the second convict year of eligibility.

(c) Three spells of furlough like all other convicts in the subsequent years”.

10. This Court notes that as per Rule 1225 (ii) of the Delhi Prison Rules, 2018, concerned Authorities were also required to call for report of Social



Welfare/Probation Officer-Depute. However, this procedure has not been filed, though mandatory.

11. In view of the above discussion, this Court directs the competent authority to treat this writ petition as representation by the petitioner herein and decide afresh the application of petitioner within a month in accordance with appropriate provisions of law.

12. Accordingly, the present writ petition is disposed of in above terms.

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

JANUARY 10, 2024/akc

[Click here to check corrigendum, if any](#)