



\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on: 04.04.2024
Pronounced on: 25.04.2024

+ W.P.(CRL) 2231/2023

GUDDU

..... Petitioner

Through: Mr. Satyam Thareja, Advocate
(DHCLSC) with Mr. Pratyash
Sikodia, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao, Standing
Counsel with Inspector Suneel
Siddhu, P.S. Mangolpuri,
Delhi.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking quashing of the impugned order dated 17.07.2023 passed by the respondent *vide* which the application for release on furlough preferred by the petitioner has been dismissed by the competent authority, and subsequent issuance of writ of mandamus directing the



release of the petitioner on furlough for a period of three weeks.

2. The petitioner states that he has already undergone incarceration of about 19 years by serving imprisonment for life, after he was convicted for commission of offence under Sections 302/394/397/34 of Indian Penal Code, 1860 ('IPC') in case FIR No.240/1998, P.S. Mangolpuri, Delhi. The appeal i.e. CRL.A. 303/2000 filed against the said conviction order was dismissed by this Court on 23.04.2010. No SPL was preferred by the petitioner against his conviction.

3. The petitioner herein had applied for grant of furlough in the month of March, 2023. However, it was dismissed by the office of Director General of Prisons *vide* impugned letter dated 17.07.2023, the relevant portion of which reads as under:

“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 in view of following reasons:

I. As per rule 1223(I), in order to be eligible to obtain furlough, the the prisoner should not be a habitual offender, however, the abovesaid convict is a habitual offender as he has been. convicted in two other cases.

II. He was released on Interim Bail on 18.03.2003 to 17.05.2003 (02 Months by Hon'ble Delhi High Court) but jumped the same and re-arrested in another case on 13.01.2009.

III. Unsatisfactory jail conduct being multiple punishments against him for violation of prison rules.

The convict may be informed under proper acknowledgement.”

4. Learned counsel appearing on behalf of the petitioner argues



that the order of rejection of the furlough application filed by the petitioner is perverse since the competent authority has failed to appreciate that petitioner has been in continuous custody from 2009 and he has not been released even on a single occasion for the last about 13 years. It is stated that petitioner is not a habitual offender and that he has suffered 19 years of actual custody. It is also pointed out that the conduct of petitioner for last one year is satisfactory and no punishment ticket has been awarded to him after 2019. It is prayer that the petitioner be released on furlough to maintain social ties.

5. Learned Standing Counsel appearing on behalf of the State, on the other hand, has argued that the order of rejection does not suffer from any infirmity as the petitioner had jumped bail in the year 2003 and he was re-arrested in another case in the year 2009 i.e. after about 6 years. It is stated that his overall conduct in the Jail is also unsatisfactory owing to several punishments awarded to him in prison in past and, therefore, he is not entitled to furlough as per Rule 1223 of Delhi Prison Rules.

6. This Court has heard arguments addressed by both the parties, and has gone through the case file.

7. In the present case, the nominal roll discloses that the petitioner has undergone about 19 years of actual imprisonment, excluding the remission of four years earned by him. The nominal roll also mentions that he has already completed rigorous imprisonment of two years in case FIR No.152/2007 under Section 307 of IPC. Further, the petitioner was convicted and sentenced for imprisonment for life in FIR No. 11/2009 under Section 302 IPC read



with Sections 25/27 of Arms Act, but the same was modified reduced from life to rigorous imprisonment for 10 years in offence punishable under Section 304 of IPC by this Court in appeal, which further ordered that this sentence will run concurrently with the sentence in the present FIR. The petitioner has already completed the substantive sentence of ten years in FIR No.11/2009.

8. This Court notes that as per nominal roll, his jail conduct for the last one year has been shown to be satisfactory. Though the overall conduct has been mentioned as unsatisfactory due to punishments awarded to him, this Court however notes that the last punishment awarded to the present petitioner, inside the jail premises, was in the year 2019. The latest report filed by the Jail Superintendent does not find mention of any other punishment awarded to him after the year 2019. Further, the incident of jumping of bail and his re-arrest pertains to the year 2009. After the year 2009, the record does not reflect that he has been released on bail, on parole or furlough on any occasion.

9. The status report mentions that the permanent address of the petitioner has been verified along with his family members, etc.

10. For a Court of law, it is crucial to consider the holistic well-being of prisoners also, and granting reliefs of furlough or parole to prisoners who have been in continuous incarceration for a very long period of time serves multiple purposes, significant for their rehabilitation and reintegration into society. It allows prisoners to maintain connections with their family and address familial and social matters while nurturing self-confidence, constructive hope, and



a renewed interest in life, all of which are vital for their psychological well-being and successful reintegration into society. Moreover, it provides a temporary respite from the stresses and adverse effects of prolonged incarceration, contributing to the physical and mental health of the prisoners.

11. Having observed so, this Court is of the opinion that taking into account the overall facts and circumstances of the case, since no punishment has been awarded to petitioner since the year 2019 and the episode of jumping the bail pertains to the year 2009, and the fact that the petitioner has already served his sentence in the other two cases in which he was convicted, this Court is inclined to grant furlough to the petitioner for a period of three weeks. Learned counsel for the petitioner had also submitted before this Court that one of the family members of the petitioner will stand surety for him, if he is released on furlough.

12. Accordingly, it is directed that the petitioner be released on furlough for a period of three weeks (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 who shall be any of his family members, 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 during the period of furlough.
- 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 not leave NCT of Delhi during the period of his release on furlough.

v. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.

vi. The period of furlough shall be counted from the day when the petitioner is released from jail.

13. In above terms, the present petition stands disposed of.

14. A copy of this judgment be forwarded to the concerned Jail Superintendent forthwith.

15. The judgment be uploaded on the website forthwith

SWARANA KANTA SHARMA, J.

APRIL 25, 2024/hs