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

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***Reserved on: 29.04.2024
Pronounced on: 02.05.2024***+ **W.P.(CRL) 2520/2023**

SANDEEP

..... Petitioner

Through: Mr. Shiv Chopra, Ms.
Aadhya Khanna, Mr.
Siddharth Arora and Mr.
Akshat Rohmepera, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao, Standing
Counsel for the State with SI
Gagandeep, P.S. Prashant
Vihar.

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

1. The instant petition 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 the petitioner seeking issuance of writ of Certiorari for quashing the punishment ticket dated 05.07.2022 issued by the respondent, and further seeking setting aside the order dated 02.06.2023 passed by the respondents vide



which the application for grant of furlough to the petitioner was rejected, and/or to issue a writ in the nature of mandamus or any other writ or order granting first spell of furlough to the petitioner for a period of three weeks.

2. The petitioner herein is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 25.05.2016, the petitioner was convicted by the Additional Sessions Judge, Rohini Court, Delhi for commission of offences punishable under Sections 302/201 of Indian Penal Code, 1860 ('IPC') in case arising out of FIR No. 447/2014 registered at Police Station Mangol Puri, Delhi and was sentenced to undergo rigorous imprisonment for life and payment of fine of Rs. 50,000/-, and in default of payment of fine, to undergo simple imprisonment for nine months. His appeal against conviction i.e., CRL.A. 184/2020 was dismissed by this Court *vide* judgment dated 03.08.2022.

3. Learned counsel appearing on behalf of the petitioner argues that the petitioner had applied for first spell of furlough for a period of three (03) weeks *vide* application dated 20.03.2023 on the grounds to re-establish social ties with his family members, which has been rejected arbitrarily. It is submitted that the petitioner has never availed the remedy of furlough after his conviction and dismissal of the appeal by this Court. It is also submitted that the petitioner had applied for furlough as he was maintaining good conduct as a convict, however, due to issuance of minor punishment dated 05.07.2022, the application for grant of furlough has been rejected by the respondents *vide* order dated 02.06.2023. In this regard, learned



counsel appearing on behalf of the petitioner submits that the impugned punishment ticket dated 05.07.2022 has been given in an unfair, unjust and arbitrary manner as the said punishment ticket has never received judicial appraisal. Therefore, the very ground for rejecting the furlough to the petitioner is that he had been granted a minor punishment. Therefore, it is prayed that the present petition be allowed.

4. *Per contra*, learned ASC appearing on behalf of the State opposes the present petition and submits that the petitioner herein has been awarded with a minor punishment and that the process of issuing show cause notice to the petitioner, to explain as to why he should not be given the said punishment ticket, is only required when the convict is given a major punishment. Thus, in the present case, the petitioner herein has been awarded with a minor punishment for which issuance of show cause notice is not mandatory nor is the judicial appraisal order mandatory. Therefore, the order rejecting furlough to the petitioner has been passed in accordance with law and after application of mind. Therefore, it is prayed that the present petition be dismissed.

5. This Court has heard arguments addressed by both the parties and has gone through the case file, as well as the impugned orders.

6. The questions which arise for adjudication in the present case are as under:



I. Whether the issuance of punishment ticket dated 05.07.2022 is in violation of the rules contained in Delhi Prison Rules, 2018?

II. Whether the petitioner deserves the relief of grant of furlough for a period of three weeks?

7. As regards the *first issue*, the Delhi Prison Rules, 2018 specifically provides that for committing any prison offence, a prisoner can be awarded punishment by the concerned Jail Superintendent. In this regard, the relevant portion of the rules is extracted hereunder:

“1270. No punishment or denial of privileges and amenities, or no transfer to other prisons with penal consequences, shall be imposed on prisoners without judicial appraisal.

1271. The following punishment(s) may be awarded by the Superintendent to prisoners for committing any prison offence. These are classified into minor punishments and major punishments.

(a) Minor Punishments

I. Formal warning which shall be personally addressed to the prisoner by the Superintendent and recorded in the punishment book.

II. Loss of privileges given to the prisoners in detention for a maximum of one month

III. Forfeiture of earned remission up to ten days.

(b) Major Punishments

I. Forfeiture of remission up to a period of thirty days at any one time or with the approval of the Inspector General remove a prisoner from the remission system up to a period of six months; Provided that the Inspector General shall have power to forfeit all earned remissions, other than remissions given by the Government, or to remove a prisoner from the remission system for the entire period of his imprisonment;



- II. Stoppage of recreational facilities up to a period of one month or canteen facilities for a period of 1 month or stoppage of interviews for a period of up to three months;
- III. In case of breaches and violations in conditions of release on parole or furlough, not counting the said period towards imprisonment.
- IV. Segregation up to a period of three months and with the sanction of the Inspector General, up to a period of six months.
- V. Monitoring under watch and security
- VI. In case of any damage to Government property, recovery of cost for such damage after proper enquiry effective with judicial appraisal
- VII. Inmate calling system stoppage up to 1 month
- VIII. Forfeiture of recovered/ seized money”

8. This Court has also gone through the procedure laid down for awarding punishment to prisoners in Delhi Jail Rules, 2018, the same are reproduced as under:

“1273. The Superintendent shall hold an inquiry touching every prison offence committed or alleged to have been committed by a prisoner in the prison in a quasi-judicial manner recording the statements of all concerned witnesses, giving full opportunity to the offender for his defense. Confessional statements of the offender should also be recorded in the presence of two witnesses. Findings and punishment in the manner provided in law should be recorded after applying judicious mind by the Superintendent in his own hand in the prisoner's history ticket. The complete enquiry file, findings and the punishment awarded shall be immediately forwarded to the District and Sessions Judge for obtaining judicial appraisal in all cases except in cases of formal warning. Where such information, on account of exigency is difficult to be forwarded immediately, be given within 2 days of finding. The Superintendent shall satisfy himself that every punishment so ordered, is duly carried into effect in accordance with law: Provided that the Superintendent, at any time, if physically incapacitated from making such record, cause the same to be made in his presence and under his directions.”



9. Having taken note of the relevant provisions of the Rules, this Court notes that in the present case, the petitioner has been issued a punishment ticket dated 05.07.2022, and by way of the same, he has been awarded two minor punishments i.e., i) stoppage of mulakat, ii) stoppage of canteen facility, for a period of 15 days respectively. Thus, these punishments are provided under Rule 1271(a) (II) of the Delhi Prison Rules, 2018. In this regard it has been stated by learned Counsel for the petitioner that the said punishment ticket has not been given judicial appraisal.

10. This Court notes that as per Rule 1270 of the Delhi Prison Rules, 2018, no punishment can be given without the order of judicial appraisal. The said rule is clear that, be it a minor punishment or major punishment, the same requires judicial appraisal and thus, in the present case, the punishment ticket dated 05.07.2022 has not been given judicial appraisal.

11. Keeping in view the aforesaid, this Court is of the opinion that the punishment ticket awarded to the present petitioner is clearly in teeth of rule 1270 and 1273 of Delhi Prison Rules as the same was not sent for judicial appraisal as per the report and documents filed on record. In view thereof, the punishment ticket is quashed and the matter is remanded back to the Jail Superintendent concerned to consider the application for grant of furlough to the petitioner afresh in view of the fact that the punishment ticket has been quashed by this Court and decide the application for grant of furlough within three weeks from the date of receipt of this order.



12. In above terms, the petition stands disposed of, alongwith pending applications if any.
13. Copy of this judgment be forwarded to the concerned Jail Superintendent for information and compliance immediately.
14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 2, 2024/ns