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

+ **W.P.(CRL) 1815/2024**

VED PRAKASH

.....Petitioner

Through: **Ms. Nikita Sharma, Advocate**
(DHCLSC).

versus

STATE OF NCT

.....Respondent

Through: **Mr. Amit Peswani, Advocate for Ms.**
Nandita Rao, ASC (Crl.) for the State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

04.07.2024

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By way of the present 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 quashing of order dated 12.02.2024 passed by the respondent rejecting his application seeking furlough.

2. Notice on this petition was issued on 31.05.2024. Status report dated 'nil' has been filed by the State.
3. The court has heard Ms. Nikita Sharma, learned counsel appearing for the petitioner, as well as Mr. Amit Peswani, learned counsel appearing for the State.
4. Mr. Peswani submits that the petitioner's application seeking furlough has been rejected by the jail authorities for the reason that he had surrendered 04 days late when he was previously granted 02 weeks furlough w.e.f. 06.11.2023 and was required to surrender by 21.11.2023, but failed to do so until 25.11.2023.



5. Ms. Sharma however explains that the reason for the petitioner having surrendered late was a misunderstanding on his part, that since his petition bearing W.P.(Crl.) No.586/2023 was pending before the Supreme Court at that time and was likely to be listed on 24.11.2023, he was not required to surrender during that period. It so transpired however, that the said petition came to be dismissed on 24.11.2023; consequent whereupon, the petitioner promptly surrendered before the jail authorities on 25.11.2023.
6. Mr. Peswani points-out, that Rule 1239 of the Delhi Prison Rules, 2018 warrants awarding of punishment to a prisoner for overstaying the period of furlough, and the petitioner's application for furlough has therefore been rejected in compliance of that rule.
7. Nominal roll dated 22.05.2024 shows that the petitioner has undergone 15 years 03 months and 11 days of actual imprisonment; and has earned remission of 04 years 02 months and 02 days; and that his jail conduct over the last one year has been 'satisfactory' except the punishment that was awarded to him on 25.11.2023 by reason of surrendering late by 04 days. The nominal roll also mentions another minor punishment awarded to the petitioner on 13.10.1997, for recovery of currency of Rs. 50/- from him. However, the record show that the petitioner's overall jail conduct has been 'satisfactory' throughout; and the petitioner has availed parole/furlough on 10 earlier occasions.
8. There is also nothing on record to suggest, nor has it been contended, that the petitioner remained at-large or that he had to be arrested and brought back to prison. The petitioner voluntarily surrendered to



custody after expiration of the previous furlough, though 04 days late. Furthermore, the petitioner has already been awarded punishment for the late surrender on 25.11.2023; and has therefore atoned for that prison offence.

9. Upon a conspectus of the facts and circumstances of the case, the petition is allowed, thereby setting-aside order dated 12.02.2024 passed by the prison authorities.
10. The petitioner is granted furlough for a period of 03 (three) weeks from the date of his release subject to the following conditions :
 - 10.1. The petitioner shall furnish a personal bond in the sum of Rs. 15,000/- (Rs. Fifteen Thousand Only) with 01 surety in the like amount from a family member, to the satisfaction of the Jail Superintendent;
 - 10.2. The petitioner shall not leave the NCT of Delhi without permission of the court and shall *ordinarily* reside at his address as per prison records;
 - 10.3. The petitioner shall present himself before the S.H.O., P.S.: Kalyan Puri every Thursday between 11 am and 11:30 am to mark his presence. However, he will not be kept waiting longer than an hour for this purpose;
 - 10.4. The petitioner shall furnish to the S.H.O., P.S.: Kalyan Puri a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
 - 10.5. If the petitioner has a passport, he shall surrender the same to the Jail Superintendent;



- 10.6. The petitioner shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending cases, if any;
- 10.7. Upon expiry of the period of parole, the petitioner shall surrender before the Jail Superintendent.
11. Petition stands disposed-of in the above terms.
12. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 4, 2024

V.Rawat