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

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Reserved on: 16.01.2024
Pronounced on: 24.01.2024

+ **W.P.(CRL) 2777/2023**

YOGESH@RINKU

..... Petitioner

Through: Mr. Satyam Thareja,
Advocate (DHCLSC)
and Mr. Pratyaksh
Sikodia, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjeev Bhandari,
ASC for the State with
Inspector Ravi Kumar,
P.S. Alipur, Outer North
District.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant writ 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 petitioner seeking issuance of writ of certiorari, quashing order no. F.10(3740556)/CJ/Legal/PHQ/2023/51764 dated 21.08.2023 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 06.03.2020, the petitioner was convicted under Sections 302/392/34 of Indian Penal Code, 1860 ('IPC') in case arising out of FIR bearing no. 220/2012, registered at Police Station Alipur, Delhi and was sentenced to undergo imprisonment for life by the learned Trial Court. His appeal against conviction i.e., CRL.A. 625/2020 was dismissed by this Court *vide* judgment dated 30.11.2021.

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

4. Learned ASC for the State draws this Court's attention to the order passed by the competent authority, *vide* which the furlough application of the petitioner was rejected, and argues that the petitioner has committed a heinous offence and since he has no permanent residential address, he would stay in a rented accommodation.

5. Learned counsel for the petitioner states that the order, by way of which the petitioner was denied furlough, is against the fundamental principles of law. It is stated that the only reason for dismissal of the application of the petitioner for grant of furlough was that the petitioner had committed a serious offence and that his residential address was not verified by the police. It is stated that petitioner was released on parole from 17.03.2023 to 12.04.2023 by this Court and he had surrendered on time before the jail authorities.



It is stated that nothing adverse was reported against the petitioner during the period of release on last parole. It is further pointed out that the petitioner fulfills the criteria for grant of furlough and therefore, the present petition be allowed.

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

7. The application filed by the petitioner for release on furlough was rejected *vide* order dated 21.08.2023, by the respondent/competent authority, 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 at this stage in view of nature of crime committed by him and unverified residential address due to non-availability of police report.

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 the petitioner had committed a serious crime and that his residential address could not be verified due to non-availability of police report.

9. While considering the present petition, this Court remains conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and as per the Nominal Roll on record, he has already remained in custody for almost 11 years 05 months excluding remission of about 01 year. Moreover, the petitioner is working as a *lunger sahayak* in the jail, and the overall jail conduct as well as jail conduct of last one year of the petitioner has been reported as



satisfactory. Further, the petitioner was also released on parole for a period of four weeks by this Court from 17.03.2023 to 12.04.2023 and he had duly surrendered on time before the jail authorities.

10. This Court has perused the Delhi Prison Rules, 2018. Rule 1197 and 1200 provide insight as to what objects are achieved by releasing a convict on parole and furlough. The said rules read as under:

“1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:

- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self-confidence,
- iii. To enable him to develop constructive hope and active interest in life,
- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and vii. To motivate him to maintain good conduct and discipline in the prison...”

11. Further, Rule 1223 provides criteria which should be fulfilled by a prisoner to be eligible for grant of furlough. The said rule reads as under:



“1223. In order to be eligible to obtain furlough, the prisoner must fulfil the following criteria: -

- i. Good conduct in the prison and should have earned rewards in last 3 Annual good conduct report and continues to maintain good conduct.
- ii The prisoner should not be a habitual offender.
- iii. The prisoner should be a citizen of India.”

12. The petitioner herein clearly fulfils the aforesaid criteria, since his jail conduct for last three years has been satisfactory, he is not a habitual offender and a citizen of India.

13. The address of the petitioner has been verified by the Investigating Officer (IO) and the report in this regard is on record. It is stated that the petitioner’s mother has been residing at the said address for last two years, which is a rented accommodation owned by one Sanjay Kumar. Statements of petitioner’s mother, brother and Sanjay Kumar have also been annexed with the address verification report.

14. Considering the overall facts and circumstances of the case, this Court is inclined to grant furlough to the petitioner for a period of three (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, 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 and shall not leave the National Capital Territory of Delhi 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 mobile number shall be kept active and operational at all the times by the petitioner.

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

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

15. In above terms, the present writ petition is disposed of.

16. A copy of this order be sent by the Registry to the Jail Superintendent concerned.

17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 24, 2024/ns