



2024:DHC:9083



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

% *Judgment delivered on: 25.11.2024*

+ **W.P.(CRL) 2820/2023**

RAMINDER SINGH @ HAPPY

.....Petitioner

Through: Mr. Anup Kumar Das, Mr.
Uday Chauhan and Ms.
Aayushi Gupta, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC
with Ms. Charu Sharma, Mr.
Arjit Sharma, Mr. Vaibhav
Vats and Mr. Nikunj Bindal,
Advocates with SI Arti, P.S.
Tilak Nagar.

Mr. Anish Dewan, *Amicus
Curiae*.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

J U D G M E N T

SWARANA KANTA SHARMA, J.

Index to the Judgment

INTRODUCTION.....	2
FACTUAL BACKGROUND.....	3
ISSUES FOR CONSIDERATION.....	5
SUBMISSIONS BEFORE THE COURT.....	6
Submissions on Behalf of the Petitioner.....	6
Submissions on Behalf of the State	9



Report of the Amicus Curiae	9
ANALYSIS & FINDINGS	12
Parole and Furlough as Measures for Upholding Dignity of Prisoners and Ensuring their Rehabilitation	12
Can Furlough be denied on the ground that the Prisoner does not have a Permanent Residential Address in Delhi?	15
Petitioner's Case for Grant of Furlough	18
Rejection of Petitioner's case by Sentence Review Board	23
CONCLUSION	30

INTRODUCTION

1. Can a convict without a permanent residential address in Delhi be denied the opportunity for release on Parole or Furlough solely on this ground? The present case poses this question before this Court.
2. 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 [hereafter '*Cr.P.C.*'], the petitioner namely Raminder Singh @ Happy seeks issuance of writ in the nature of certiorari for quashing of order *Ref. F10(3731387)/CJ/Legal/2023/30778* dated 17.05.2023, passed by the Office of Director General of Prisons, Tihar, and issuance of writ in the nature of mandamus seeking direction to the respondent to release the petitioner on First Spell of Furlough for a period of three weeks.
3. The petitioner herein is presently lodged in Central Jail No. 02, Tihar, New Delhi, and is serving life sentence awarded to him in case arising out of FIR No. 797/2002, registered at Police Station Tilak Nagar, Delhi, under Sections 302/323 of Indian Penal Code, 1860



[hereafter '*IPC*'] and Section 27 of Arms Act, 1959 [hereafter '*Arms Act*']].

FACTUAL BACKGROUND

4. Brief facts of the case are that on 27.10.2002, the present FIR was registered against the petitioner, on the allegations that he had attacked one Sh. Gurmeet Singh with a knife, causing injuries on his chest and neck, and had also stabbed Gurmeet's younger brother, Sh. Prabhjot Singh, and assaulted their mother, Smt. Harjeet Kaur, during an altercation on 26.10.2002. Sh. Gurmeet Singh had died at the spot and Sh. Prabhjot Singh had died in hospital on 29.10.2002. After the conclusion of trial, the petitioner was convicted for offences punishable under Sections 302/323 of IPC and Section 27 of Arms Act *vide* judgment dated 23.08.2008. By way of order on sentence dated 27.08.2008, the petitioner was awarded death sentence by the learned Trial Court. Accordingly, a Death Sentence Reference was made to this Court. The Division Bench of this Court, in *Death Sentence Ref. 3/2008*, held that the case at hand did not "fit in the category of rarest of the rare cases" and therefore, the death sentence was converted into one of life imprisonment.

5. The petitioner had neither challenged his conviction before this Court, nor challenged the order passed by the Division Bench in *Death Sentence Ref. 3/2008* before the Hon'ble Supreme Court.



6. The petitioner continues to remain in jail since 27.10.2002 i.e. the date of his arrest, and has never been released either on Bail or Parole or Furlough.

7. In the year 2020, the case of the petitioner was examined by the Sentence Review Board [hereafter also referred to as '**SRB**'] for the purpose of his premature release. In the minutes of meeting dated 11.12.2020, the SRB noted that the petitioner had remained in judicial custody for about 18 years without remission and 22 years with remission, and the Social Welfare Department had recommended premature release of the convict. However, the SRB observed that the offence committed by the petitioner was grave in nature and that the petitioner had never availed any Bail, Furlough or Parole. On these grounds, the SRB refused to release the petitioner prematurely.

8. A few years down the line, in April, 2023, the petitioner approached the Competent Authority for grant of First Spell of Furlough for a period of three weeks. However, his application was rejected *vide* impugned order dated 17.05.2023 on the following grounds:

“...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 the following reasons(s):

I. As per police verification report dated 29.03.2023 of Dy. Commission of Police, South-West District, above said convict has no permanent address in Delhi and he wants to reside at the address of another inmate Sheeshpal Yadav who was lodged in Central Jail No. 2, Tihar w.e.f 22.12.2021 to



17.02.2023. The Police authority has strongly opposed the release on furlough...”

9. Thus, it is apparent that the petitioner’s application was rejected on the sole ground that he had no permanent address in Delhi and wished to reside at the address of another inmate who was earlier lodged in the same jail.

10. Aggrieved by the rejection of his plea seeking Furlough, the petitioner has approached this Court way of present petition.

ISSUES FOR CONSIDERATION

11. This Court, *vide* order dated 13.02.2024, expressed that the economic circumstances and the poverty of the petitioner had come in his way for seeking even Furlough, though he had been incarcerated for about 21 years. Therefore, it was deemed appropriate to appoint Sh. Anish Dewan, Advocate, as *Amicus Curiae* in the present case, to assist to assist this Court on the following issue:

“Whether there are any rules in the Delhi Prison Rules, 2018 or any other law which dis-entitles a convict from seeking release on parole on the ground of such convict not having a permanent address in Delhi”

12. Thereafter, on 08.05.2023, three additional questions were framed for consideration of the learned *Amicus Curiae*, which are set out below:

“Whether there is any rule/procedure etc. which provides that Sentence Review Board shall reject the premature



release of a convict if he has never been released on parole or furlough?

Whether the Sentence Review Board takes into account the social context of the ground realities of prisoners and convicts who may not have permanent residential address or anyone in their families coming forward to stand for them so that they can be released on parole/furlough?

Whether the order of Sentence Review Board in this case amounts to holding that the convict herein shall have to remain in prison forever?"

SUBMISSIONS BEFORE THE COURT

Submissions on Behalf of the Petitioner

13. Mr. Anup Kumar Das, the learned counsel appearing for the petitioner, argues that the impugned order has been passed in a mechanical manner without appreciating the facts and circumstances of the case in the correct perspective. It is contended that the petitioner has been in judicial custody since 27.10.2002, amounting to over 22 years of actual incarceration and 27 years including remission. Mr. Das submits that the petitioner's parents have already expired, and his other family members, including his brother, have severed all social ties with him and have never visited him for a *Mulakat* in jail. He further argues that the petitioner's conduct during incarceration has been consistently satisfactory.

14. It is contended that, as a settled principle, effective and proper rehabilitation of a convict requires allowing periodic Parole or Furlough to aid reformation. Keeping the petitioner in continuous



custody for such a prolonged period is detrimental to his morale and mental health. Mr. Das submits that the petitioner meets all the eligibility criteria for Furlough as per the guidelines and is currently performing his duties as a Legal Sewadar in the Legal Cell in the jail, with utmost diligence.

15. It is further argued that the address provided by the petitioner in his Furlough application belongs to an innocent person, who was convicted only in a case under Section 138 of the Negotiable Instruments Act, 1881, who became a friend of the petitioner during incarceration, and the petitioner undertakes to provide an alternative address within one week of his release. Mr. Das contends that, under the Delhi Prison Rules, 2018 [hereafter also referred to as '*Delhi Prison Rules*'], particularly Chapter XXII, the responsibility for ensuring a convict's return to prison after temporary release does not rest solely on the convict or surety but also on the State, as the convict remains under its custody.

16. It is further submitted that denying Parole or Furlough due to the lack of a permanent address in Delhi or India frustrates the very purpose of these reforms. It is argued that the rules requiring a convict to furnish a proposed address for seeking Parole or Furlough do not mandate rejection of such applications based on the absence of a permanent residence in Delhi.

17. It is also contended that steps such as active involvement of NGOs in rehabilitation programs, provision of subsistence money, food, temporary accommodation, and placement in district shelters or



after-care hostels can address the issue of lack of permanent residence. Such measures, it is argued, would ensure the petitioner's compliance with conditions of Parole or Furlough while facilitating his reintegration into society under appropriate supervision and monitoring.

18. Learned counsel for the petitioner also suggested some measures and directions to facilitate the release of prisoners who lack a permanent residence in Delhi, NCR, or India. He submitted that prior to granting Parole or Furlough, proper counselling, including physiotherapy, should be provided to eligible prisoners. Approved NGOs or welfare agencies should be involved to assist prisoners before, during, and after their release by offering guidance, cooperation, encouragement, and vigilance. Further, the State Government could allot Shelter Homes or Rain Baseras to such prisoners during their release period, covering expenses for food and clothing, particularly for those who have not earned money in prison. He also stated that vigilance measures such as periodic attendance at a designated police station or restrictions on movement within a specific area can be implemented, especially for prisoners being released for the first time, with flexibility allowed in subsequent releases.

19. Learned counsel for the petitioner also suggested different conditions which can be imposed on the petitioner if he is granted furlough.



Submissions on Behalf of the State

20. On behalf of the State, it was submitted that the petitioner's plea for Furlough was rejected since he had no permanent residential address in Delhi, to furnish to the jail authorities, where he would stay if he is released on Furlough. However, it was also submitted that the State would not object to, if this Court deems it appropriate to grant Furlough to the petitioner, subject to certain conditions, since the petitioner has never been released on Furlough or Parole for the last about 22 years.

Report of the Amicus Curiae

21. Mr. Anish Dewan, the learned Amicus Curiae, submitted a report addressing the question of whether the absence of a permanent residential address in Delhi disqualifies a convict from seeking Parole or Furlough under the Delhi Prison Rules, or any other law. He submits that the relief of Parole and Furlough is governed by the Delhi Prison Rules, which do not specifically mandate that a convict must have a permanent address in Delhi to be eligible for such relief.

22. Mr. Dewan submits that the relevant provisions, particularly Rules 1213 and 1226 of the Delhi Prison Rules, outline the format and details required to be submitted while applying for Parole or Furlough. These details include: (i) the address of the applicant, (ii) the last confirmed address of the convict, and (iii) the proposed address where the convict intends to stay during parole or furlough. It is submitted that while these rules require the furnishing of such addresses, they do not prescribe that the absence of a permanent



residential address in Delhi constitutes grounds for rejection of Parole or Furlough.

23. Learned Amicus Curiae argues that the practical realities of incarceration must be considered by the authorities, as the convict who has been in prison for 22 years, with deceased parents and no familial ties, may struggle to provide a permanent address to the authorities. It is submitted that individuals from impoverished backgrounds may have never had permanent residences, may have lived in temporary or non-permanent accommodations. Additionally, not all prisoners lodged in the prisons in Delhi originate from Delhi, and many belong to other states or reside in temporary accommodations. Denying such individuals Parole or Furlough solely on the basis of their residential status would be unjust and contrary to the principles of rehabilitation.

24. Mr. Dewan also states that such a rigid interpretation would unfairly disadvantage convicts from less privileged backgrounds or those without connections in Delhi, effectively depriving them of the opportunity for reformation and reintegration into society. In this regard, he further submits that for individuals hailing from impoverished backgrounds, the concept of permanent residence or stable housing may be elusive or entirely foreign. For such individuals lodged in jails, the prospect of returning to a place they once called home may be uncertain or unfeasible. However, the learned Amicus Curiae also submitted that in cases where prisoners have no permanent residence, which may be often the case, the jail



authorities can of course impose stricter conditions to ensure that such prisoners do not abscond and surrender on time.

25. Mr. Dewan further submits that in cases such as the present one, the Jail authorities can collaborate with social welfare agencies and NGOs to facilitate successful reintegration of such prisoners by providing them assistance in securing temporary accommodation, accessing employment opportunities, and receiving necessary support services, such as mental health counseling or skills training.

26. In respect of the three additional questions framed by this Court in order dated on 08.05.2023, the learned Amicus Curiae filed an additional report, the concluding portion of which is set out below:

“a) The petitioner, convicted of multiple murders, has had his premature release rejected multiple times by the Sentence Review Board, despite having served over 21 years and 8 months in prison, without even being released from the prison for even a single day. His rejections occurred in December 2020, June 2021, October 2021, and June 2023, reflecting consistent denial of premature release to him.

b) There is no specific or general rule mandating that a convict must have been released on parole or furlough for the Sentence Review Board to recommend premature release. The Delhi Prison Rules, 2018, and related guidelines do not list parole or furlough as factors influencing decisions on premature release. Thus, the SRB’s 22 23 decisions are based on a broader set of parameters, not solely on the convict’s history of parole or furlough.

c) The analysis of SRB meetings over the past four years reveals a notable lack of uniformity in the criteria used for recommending the premature release of prisoners. Although the availing of parole or furlough has been inconsistently cited as a factor, no specific rule mandates its consideration in such decisions.

d) The inconsistency in SRB’s approach highlights the need for a standardized framework to ensure fairness and



transparency. The latest meeting on December 21, 2023, showed an improvement with more comprehensive and reasoned decisions, indicating a positive step towards a more uniform and fair decision-making process. Hon'ble High Court of Delhi is more than competent to issue directions, in writ jurisdiction, to the competent authorities to follow the rules and directions/guidelines for premature release in true letter and spirit.

e) The Sentence Review Board is required to consider the social context and socio-economic conditions of prisoners and convicts, including those without permanent residence or family support for parole or furlough. The Delhi Prison Rules, 2018, explicitly mandate this consideration, with Rule 1251 highlighting the socio-economic condition of the convict's family as a key factor. The Hon'ble Supreme Court has also emphasized the importance of these considerations for fair and just decisions. Comprehensive notes by the Superintendent of Prison and reports from the Social Welfare Department provide detailed insights into the convict's background and circumstances. Therefore, the SRB has to undertake a holistic approach, and has to reflect upon the individual circumstances of each convict when reviewing applications for premature release.

f) The orders of Sentence Review Board do not necessarily mean that the petitioner will remain in prison forever. There are legal avenues available for the petitioner to challenge the SRB's decisions, particularly if those decisions were based on irrelevant considerations. The consistent recommendation for premature release by the Social Welfare Department and the lack of uniform application of relevant factors in the SRB's decisions strengthen the petitioner's case for seeking judicial intervention."

ANALYSIS & FINDINGS

Parole and Furlough as Measures for Upholding Dignity of Prisoners and Ensuring their Rehabilitation

27. Prolonged imprisonment and isolation can deeply impact the mental health and well-being of convicts serving long sentences. Being separated from their families and communities for years often



deprives them of the social connections and support systems which are vital for their emotional strength. In this context, Parole and Furlough play a critical role as sources of hope and opportunities for renewal for the convict-prisoners within the criminal justice system.

28. Rules 1197 to 1202 of the Delhi Prison Rules itself provide guidance as to what objectives the grant of parole and furlough aims to achieve. These Rules read as under:

“Rule 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.

Rule 1198: Parole means temporary release of a prisoner for short period so that he may maintain social relations with his family and the community in order to fulfill his familial and social obligations and responsibilities. It is an opportunity for a prisoner to maintain regular contact with outside world so that he may keep himself updated with the latest developments in the society. It is however clarified that the period spent by a prisoner outside the prison while on parole in no way is a concession so far as his sentence is concern. The prisoner has to spend extra time in prison for the period spent by him outside the Jail on parole.

Rule 1199: Furlough means release of a prisoner for a short period of time after a gap of certain qualified numbers of years of incarceration by way of motivation for maintaining good conduct and to remain disciplined in the prison. This is purely an incentive for good conduct in the prison. Therefore, the period spent by the prisoner outside the prison on furlough shall be counted towards his sentence.

Rule 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.”

29. The above Rules emphasize that Parole and Furlough serve as progressive correctional measures, which are aimed at rehabilitation of the convict-prisoners. They allow prisoners to maintain familial and social ties, and help in fostering a sense of self-confidence and hope. These measures also help prisoners stay updated with societal developments, promote psychological and physiological well-being, and mitigate the negative effects of incarceration. They incentivize good behavior and discipline within the prison system.

30. In this Court’s opinion, these provisions are not just legal formalities, but they reflect society’s acknowledgment of the dignity and potential for rehabilitation in every prisoner. By allowing inmates to reconnect with their families, regain self-confidence, and stay connected to the outside world, Parole and Furlough pave the way for healing, personal growth, and eventual reintegration into society.



Can Furlough be denied on the ground that the Prisoner does not have a Permanent Residential Address in Delhi?

31. To resolve this controversy, it shall be pertinent to first take note of the provisions of Delhi Prison Rules with regard to the procedure for applying for Furlough.

32. Rules 1213 and 1226 of the Delhi Prison Rules provide the procedure to be followed while processing the applications for Parole and Furlough, respectively. With regard to Furlough, the Rule 1226, *inter alia*, provides as under:

“Rule 1226. The following procedure would be followed while processing the application for furlough and thereafter:-

i. An application for grant of furlough may be submitted by the convict or family members to the Superintendent of Jail.

ii. The application must contain the following details:

1. Name of the applicant.

2. Name of the father of the applicant.

3. **Address of the applicant.**

4. In case the application is being moved by a family member, the details of relationship with the convict.

5. Whether any other application of the convict is pending for parole or furlough.

6. **Last confirmed address of the convict and**

7. Reasons for seeking furlough.

8. **Proposed address where the convict wishes to stay during furlough...**”

(Emphasis added)

33. It is evident from the aforesaid that Rule 1226 prescribes that while making an application for grant of Furlough, the following details have to be submitted:



- a) Address of the applicant (which may or may not be the convict himself),
- b) Last confirmed address of the convict, and
- c) Proposed address where the convict wishes to stay during the period of furlough.

34. Thus, the Rule clearly states that a convict has to furnish “the proposed address where the convict wishes to stay”. It is also clear that the said address may not be the same as the last confirmed address of the convict.

35. However, clearly, there is no requirement that the convict has to furnish his “permanent residential address in Delhi” while applying for Furlough. In fact, it would be difficult for this Court to even accept such a requirement for grant of Furlough.

36. The situation of a convict who has spent 22 years in prison would highlight a harsh reality. Take the case of present petitioner – with no surviving parents and no family visits during incarceration, re-entering society, especially in a State like Delhi, can be an immensely difficult process. Individuals like him may struggle to secure a permanent residence in Delhi. In fact, many individuals from economically disadvantaged backgrounds may never have had permanent homes, and instead may be living in temporary or transient accommodations. Moreover, not all prisoners in Delhi’s prisons are residents of the State of Delhi; there will be a large population in Delhi Prisons of convicts who are not from Delhi and, therefore, will have neither roots nor residence in Delhi, and



consequently, will have nil chances of getting Parole or Furlough in case the reasoning of the Competent Authority is accepted that since the convict does not have permanent address in Delhi, it is a ground for denial of Furlough to him.

37. It will lead to a distressing situation where Furlough applied for by any prisoner who has a permanent residence in another State in India, however, not one in Delhi will be prepared for a predictable outcome of his application before the competent authority – of rejection of the application, on ground of him not having permanent residence in Delhi. To put it in other words, only prisoners having permanent residence in Delhi will be released on Furlough and not others. This is not the intent of the Delhi Prison Rules, the constitution or the judicial precedents with regard to grant of furlough or parole.

38. In this Court's view, a prisoner can be granted Furlough by getting their addresses verified even if the same are located in some other State and irrespective whether the address is permanent or temporary, since the word permanent has not been suffixed to the word address in Rule 1226 of the Delhi Prison Rules.

39. Thus, the social context of the prisoners, the ground realities, and their economic circumstances cannot be ignored so as to stipulate such requirements of having a permanent residence in Delhi by the competent authority on its own, though not prescribed by the Delhi Prison Rules, that too in a case where the convict has not been released from the jail for the last 22 years.



40. *Needless to state*, any proposed address tendered by a convict-prisoner would be subject to scrutiny and verification by the authorities concerned, before granting the relief of Furlough or Parole.

41. **Therefore**, taking into account the relevant rules stipulated in the Delhi Prison Rules, this Court concludes that there is no rule or condition that a convict-prisoner, not having a permanent residential address in Delhi, would not be granted Furlough on this ground.

Petitioner's Case for Grant of Furlough

42. A perusal of the records, including the Nominal Roll, reveals that the petitioner's conduct for the last 22 years i.e. since the date of his arrest has been 'satisfactory' inside the prison. He has never been awarded any minor or major punishment. Moreover, he also been working as a Legal Sahayak in the prison.

Criteria for Grant of Furlough

43. Rules 1220 to 1233 govern the grant of Furlough to prisoners, wherein Rules 1220 to 1225 *inter alia* prescribe the eligibility criteria for grant of Furlough, and Rules 1226 to 1233 provide as to how an application filed for grant of Furlough is to be decided and disposed of.

44. At this stage, it shall be apposite to take note of Rule 1223 of the Delhi Prison Rules, which prescribes the eligibility criteria for grant of Furlough. The is extracted hereunder:

“Rule 1223. In order to be eligible to obtain furlough, the prisoner must fulfill 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.”

45. On the other hand, Rule 1224 lists out those categories of prisoners who are dis-entitled from grant of Furlough. It reads as follows:

“**Rule 1224.** The following categories of prisoners shall not be eligible for release on furlough:

- i. Prisoners convicted under sedition, terrorist activities and NDPS Act.
- ii. Prisoners whose immediate presence in the society may be considered dangerous or otherwise prejudicial to public peace and order by the District Magistrate of his home district or there exists any other reasonable ground such as a pending investigation in a case involving serious crime.
- iii. Prisoners who are considered dangerous or have been involved in serious prison violence like assault, outbreak of riot, mutiny or escape, or rearrested who absconded while released on parole or furlough or who have been found to be instigating serious violation of prison discipline as per the reports in his/her annual good conduct report.
- iv. Convicted foreigners.
- v. Prisoners suffering from mental illness, if not certified by the Medical Officer to have recovered.

Note: - (1) Simultaneous furlough to co-accused convicts are ordinarily not permissible. However, when co-accused convicts are family members, simultaneous release may be considered in exceptional circumstances only.

Note: - (2) If an appeal of a convict is pending before the High Court or the period for filing an appeal before the High Court has not expired, furlough will not be granted and it would be open to the convict to seek appropriate directions from the Court.”



46. Further, Rule 1225 provides that in certain cases, the application for Furlough would be considered after taking into account the report/recommendation of the Social Welfare officer or Probation Officer, in addition to the general criteria. Rule 1225 of the Delhi Prison Rules is set out below:

“Rule 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/ recommendation 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.”

47. Undoubtedly, the petitioner fulfills the eligibility criteria for grant of Furlough, as provided under Rule 1223 of the Delhi Prison Rules. His conduct throughout the period of incarceration has been satisfactory, and he is not a habitual offender. The petitioner also does not fall within any of the cases mentioned in Rule 1224 i.e. cases where a convict is dis-entitled from seeking furlough.

48. Since the petitioner herein was convicted for murder of two individuals, his case would fall within the scope of Rule 1225, which



inter alia pertains to prisoners who have been convicted for multiple murders.

The Impugned Order

49. As evident from a bare reading of the impugned order, the report of the Social Welfare officer or the Probation Office was neither called nor considered by the competent authority while rejecting the petitioner's application seeking Furlough. The impugned order only makes reference to a police verification report, that too which only mentions that the petitioner has no permanent address in Delhi, and no other material.

50. Additionally, as noted and held above, there are no rules in the Delhi Prison Rules which prescribe any disqualification from grant of Furlough on the account of a prisoner not having a permanent residential address in Delhi. The only requirement is to furnish the last confirmed address of the convict and the proposed address where the convict wishes to stay during the period of Furlough. Concededly, both these addresses were furnished by the petitioner. The last confirmed address, as it also appears in the nominal roll, is S-2/74, Old Mahabir Nagar, New Delhi, whereas the address of Shishpal Yadav, i.e. with whom the petitioner wishes to stay (i.e. the proposed address), is House No. 230, Banshiwala House, Rajokri, Near Panchayat Ghar, New Delhi.

51. What distresses this Court is the poignant fact, peculiar in this case, that the petitioner herein, having no family member in contact with him, due to his long incarceration of 22 years in jail on charges



of murder has evidently lead a life of being valuable and of assistance to the community as is possible within the four walls of prison by working as a Legal Sahayak. What is worthy of taking note of, is also another fact that there is not a single complaint of misbehaviour against him in the long journey of 22 years behind the confining walls of the prison. The petitioner had also tendered address of a friend since he had no permanent address of his own in the State of Delhi, however, which faced a rejection order on the ground that it was not his permanent address in Delhi.

52. If such rejection orders are upheld, wherein Furlough is denied in the circumstances as the case in hand presents, on the ground of the convict having no permanent address in Delhi, it will be laying down that a person having no permanent residence in Delhi will never be released on parole or furlough. It will be an absurd situation, to say the least. It will also be equivalent to holding that a man, who due to his economic status does not have a permanent residence in Delhi, will not be released on Furlough. Prisons in Delhi, such as Tihar Jail, are not catering or confined to lodging prisoners from the State of Delhi alone and, therefore, there can be no restriction for such non-resident convicts of Delhi, who live in other States, to be denied Furlough on this sole ground. The competent authority exercises its jurisdiction for grant of Furlough, for all the inmates of Delhi Prisons under the relevant Delhi Prison Rules. This Court opines that denying such an individual, Furlough or Parole on the ground of not having permanent residential address in Delhi, would



be unreasonable and unjust. The intent behind the provision of Furlough cannot be underestimated, and so is true about the fact that the prisons are for reformation of convicts.

53. Thus, in cases such as the present one, where the petitioner has endured nearly 22 years behind bars, the jail and other competent authorities are expected to act with greater sensitivity and compassion. The authorities must carefully evaluate the unique circumstances of each case, consider reports from the Social Welfare Officer and/or Probation Officer, and explore all viable avenues to ensure the prisoner's rehabilitation and reintegration into society. A more empathetic approach is necessary, particularly for convicts who lack family support or permanent residence, to uphold the rehabilitative intent of provision of Furlough.

54. **Therefore**, this Court is of the opinion that the impugned order has been passed in a mechanical and arbitrary manner, without following the mandate of Delhi Prison Rules. The same is thus liable to be set aside.

Rejection of Petitioner's case by Sentence Review Board

55. During the course of arguments, it was brought to the notice of this Court that the SRB, *vide* its meeting held on 11.12.2020, had rejected the petitioner's case for premature release *inter alia* on the ground that the petitioner had never been released on Bail or Parole or Furlough, and thereafter when the petitioner had applied for Furlough, the same was denied on the ground that the petitioner had no permanent address in Delhi.



56. This raised an important question regarding the factors considered by the SRB while deciding cases of premature release for convicts. Accordingly, this Court framed three issues for the learned Amicus Curiae's consideration. These issues focused on whether any rule or procedure mandates that the SRB must reject the premature release of a convict who has never been released on Parole or Furlough, and that whether the SRB appropriately considers the social context and ground realities of prisoners, particularly those without permanent residences or family support to stand as sureties for their release on Parole or Furlough.

57. Learned Amicus Curiae filed a detailed report on these issues, pointing out the relevant provisions of Cr.P.C., i.e. Sections 432, 433 and 433A, which deal with commutation of sentence awarded to a prisoner, as well as the relevant rules of Delhi Prison Rules which deals with premature release of a convict. Learned Amicus Curiae also drew this Court's attention to the guidelines on premature release of prisoners formulated by the National Human Rights Commission in the year 2003, and the SRB Policy of Delhi, 2004 – which now stands incorporated under Chapter XX of the Delhi Prison Rules.

58. Having perused these provisions, this Court notes that the case of petitioner for premature release or commutation would be covered by Section 433 of Cr.P.C. which provides that in cases of prisoner being sentenced to life imprisonment, they shall not be prematurely released unless they have served 14 years of imprisonment, and



further since the petitioner was convicted for murder of two individuals, his case would fall under Rule 1252 of Delhi Prison Rules which provides that premature release in such cases shall be considered only when a convict has undergone 20 years of imprisonment with remission and at least 14 years of actual imprisonment. In this regard, this Court notes that the case of petitioner was considered for premature release by the SRB in the year 2020, when he had undergone 18 years of actual imprisonment and about 22 years of imprisonment including remission. However, the SRB had rejected the petitioner's premature release *vide* following order dated 11.12.2020:

“136. RAMINDER SINGH @ HAPPY S/O SH. PRITAM SINGH — AGE- 48 YRS.

Raminder Singh @ Happy S/o Sh. Pritam Singh is undergoing life imprisonment in case FIR No. 797/2002, U/S 302/323 IPC & 27 Arms Act, P.S. Tilak Nagar, Delhi for committing murder of his 02 cousin brothers (Aged 22 & 16 years) over business dispute.

The convict has undergone:

Imprisonment of 18 years and 05 days in actual and 22 years, 02 months and 14 days with remission. He has never availed any I. Bail, Parole or furlough.

Recommendation by Police:

The Deputy Commissioner of Delhi Police (Legal) has strongly opposed premature release of the convict in the meeting.

Recommendation by Social Welfare Department:

The Social Welfare Department, Delhi has recommended premature release of the convict in its report. However, the Director, Social Welfare Department, Delhi has objected his premature release in the meeting.

Conclusion:



2024:DHC:9083



After taking into account all the facts and circumstances of the case i.e. convict has murdered his own 02 cousin brothers over business dispute, gravity and perversity of offence, having not availed any parole/furlough till date, possibility of committing crime again, strongly opposed by police authority, the Board **REJECTS** premature release of convict Raminder Singh @ Happy S/o Sh. Pritam Singh at this stage.”

59. In addition, the learned Amicus Curiae drew this Court’s attention to the fact that subsequent to the aforesaid, the petitioner’s case was again rejected by the SRB in June, 2021, October, 2021 and June, 2023. However, the discrepancies in the factors considered by the SRB over a period of years and the reasons cited for rejecting the petitioner’s premature release were also pointed out by the learned Amicus Curiae.

60. This Court notes that in the SRB meetings held in December, 2020, June, 2021, October, 2021, December, 2022, and June, 2023, one of the factors considered while considering the cases for premature release was the Furlough and Parole availed by the prisoners and their conduct during these periods. In December, 2023, the SRB considered the Delhi Prison Rules and decisions of the Hon’ble Supreme Court in deciding the premature release of prisoners, and notably, the Parole or Furlough availed by a prisoner or their conduct during these periods was not mentioned as a relevant factor while considering the cases for premature release of prisoners.

61. This Court further notes that while rejecting the petitioner’s case for premature release in December, 2020, the SRB had mentioned that the petitioner had not availed any Parole or Furlough



till date. However, this reason was not mentioned in the subsequent orders passed by the SRB in respect of the present petitioner. Therefore, the analysis of the SRB meeting minutes over the past few years indicates a lack of uniformity in the recommendations for premature release of prisoners made by the SRB.

62. Be that as it may, insofar as the parameters to be followed while deciding premature release of a prisoner are concerned, Rule 1251 of Delhi Prison Rules lists out the same. Notably, the said Rule does not mention that the release of prisoners on Parole or Furlough is to be considered as a factor while deciding the issue of premature release of a prisoner. Further, Rule 1257 of Delhi Prison Rules mentions that while deciding the issue of premature release, general principles in this regard can also be taken into account. Insofar as general principles are concerned, if the principles laid down by the Hon'ble Supreme Court are taken into consideration, one would arrive at a conclusion that there is again no principle which suggests that the frequency of a prisoner's release on Parole or Furlough should influence the decision of SRB on premature release. In this regard, this Court notes that the Hon'ble Supreme Court, in the case of *State of Haryana v. Jagdish* (2010) 4 SCC 216, while reiterating its earlier decision in case of *Laxman Naskar v. Union of India* (2000) 2 SCC 595, held that the factors for consideration while deciding the premature release of a convict are as under:

- i. Whether the offence affects the society at large;
- ii. The probability of the crime being repeated;
- iii. The potential of the convict to commit crimes in future;



- iv. If any fruitful purpose is being served by keeping the convict in prison; and
- v. The socio-economic condition of the convict's family.”

63. These factors were reiterated by the Hon'ble Supreme Court in cases of *Ram Chander v. State of Chhattisgarh* (2022) 12 SCC 52 and *Bilkis Yakub Rasool v. Union of India* (2024) 5 SCC 481.

64. Another significant rule in this context is Rule 1256, which outlines the procedure for premature release and specifies the role of the Superintendent of Prison. A closer examination of this rule reveals that while the Superintendent is required to prepare a detailed report for the SRB's consideration, it does not mandate the inclusion of information regarding the prisoner's history of Parole or Furlough. In fact, the learned Amicus Curiae, in his report, has highlighted several instances in recent years where the SRB has recommended the premature release of prisoners who had never availed Parole or Furlough during their incarceration.

65. **Therefore**, it can be safely concluded that there is no specific rule, requiring a prisoner to be released on Parole or Furlough, as a prerequisite for the SRB to recommend premature release of the said prisoner.

66. In addition to the aforesaid, this Court had put another question for the consideration of learned Amicus Curiae i.e. whether the SRB is required to take into account the social context and socio-economic conditions of prisoners and convicts. In this regard, this Court, having gone through the report of the learned Amicus Curiae as well as



written submissions filed by the learned counsel for the petitioner, notes that the Delhi Prison Rules specifically mandate such consideration. Rule 1251, in particular, mentions the socio-economic condition of the convict's family as a key factor while considering the question of premature release. Rule 1256 further requires the Superintendent of Prison to prepare a comprehensive note for each prisoner, encompassing details about the convict's family and social background, the circumstances surrounding the commission of offence, their conduct and behavior during incarceration, and an assessment of their physical and mental health. The Hon'ble Supreme Court has also emphasized the importance of these considerations for fair and just decisions.

67. **Therefore**, this Court is of the view that the SRB is required to undertake a holistic approach, and has to reflect upon the individual circumstances of each convict when reviewing applications for premature release, including their socio-economic backgrounds.

68. While this Court observes the aforesaid, it is pertinent to note that the petitioner has not challenged the decisions of the SRB before any Court of law. The scope of the present petition is confined to challenging the impugned order denying Furlough to the petitioner and seeking the grant of Furlough for a period of three weeks.

69. However, this Court deemed it necessary to undertake the above discussion since the broader issues concerning the interpretation of relevant rules, including the procedure for premature release and the socio-economic considerations under the Delhi Prison



Rules, were raised and argued on behalf of the petitioner. Such an analysis was undertaken to provide clarity and guidance on the application of these provisions in the larger interest of justice.

70. It is thus **directed** that when the case of the present petitioner is again put up before SRB for consideration, the abovementioned factors will be taken into consideration to decide his case for premature release.

CONCLUSION

71. In view of the foregoing discussion, this Court sums up its conclusion as under:

- (a) Though the Delhi Prison Rules mandate that a convict-prisoner seeking Furlough must furnish both the last confirmed address and the address where he intends to stay during the period of Furlough period, there is no rule stipulating that a convict can be denied Furlough on the sole ground of him not having a permanent residential address in Delhi.
- (b) There is no specific or general rule in the Delhi Prison Rules requiring a convict to have been previously released on parole or furlough as a prerequisite for the Sentence Review Board to recommend premature release. The Delhi Prison Rules and related guidelines do not prescribe grant of parole or furlough as decisive factors in such decisions. Therefore, the Sentence Review Board's determinations are



based on a wider set of considerations, not limited to the convict's history of release on parole or furlough.

- (c) The Sentence Review Board is obligated to take into account the social context and socio-economic conditions of prisoners and convicts, including those who lack permanent residence or family support to facilitate Parole or Furlough.

72. In this Court's opinion, Furlough serves as both a reward for the prisoners' commendable behavior and an acknowledgment of the reformation evident in their consistent conduct within the prison. It is a recognition of their merit under the prison rules, granting them an opportunity to sustain familial and social bonds. Notably, during furlough, the prisoners are considered to be serving their sentence, *albeit* outside the confines of the prison. This period is counted as part of the sentence, symbolizing the system's confidence in their reformation. It allows them to experience freedom, reconnect with family, and find solace, reinforcing their journey towards rehabilitation.

73. If the provision of furlough is subjected to rigid and mechanical interpretations or even mis-interpretations, it risks losing its essence and intended purpose. This welfare-oriented measure for prisoners may fade under the weight of inflexible application by the authorities. Therefore, in this Court opinion, the Courts must adopt a compassionate approach to ensure that the isolation of prison life does not irreparably harm the mental health of



prisoners or derail their rehabilitation. A prisoner's reformation must be given meaningful consideration, and Furlough should be considered as a tool to promote their reintegration into society.

74. In view of the reasons recorded above, and taking into account the fact that the petitioner has remained incarcerated for about 22 years without a single complaint ever filed against him, this Court sets aside the impugned order dated 17.05.2023. It is directed that the petitioner be released on First Spell of Furlough for a period of three 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 thrice a week i.e. on every Monday, Wednesday and Friday, 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 number shall be kept active and operational at all the times by the petitioner.
- iv. The petitioner shall reside at the address mentioned in his application i.e. House No. 230, Banshiwala House, Rajokri, Near Panchayat Ghar, New Delhi (address of Shishpal Yadav),



2024:DHC:9083



subject to verification of this address by the concerned authorities.

v. As mentioned in the petition itself, the petitioner undertakes to provide an alternative address, within a period of one week, from the date of his release from the jail.

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

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

ix. The Jail Superintendent shall be at liberty to impose any other reasonable condition(s) which he deems fit in the facts of the case.

75. The petition is disposed of in above terms.

76. Copy of this judgment be forwarded to the concerned Jail Superintendent for necessary information and compliance.

77. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

NOVEMBER 25, 2024/ns