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

+ **W.P.(CRL) 2008/2024**

EZIEFULA SAMUEL UCHEGBU

.....Petitioner

Through: Ms. Jahanvi Vohra, Advocate (M-9810183379).

Versus

STATE OF (N.C.T.) DELHI

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel (criminal) for the State with Ms. Priyam Agarwal and Mr. Abhinav Kr. Arya, Advocates.
Mr. Anurag Ahluwalia CGSC with Mr. Kaushal Jeet Kait GP and Ms. Hridyanshi Sharma, Advocate for UOI.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **15.10.2024**

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed on behalf of the Petitioner- Eziefula Samuel Uchegbu under Article 226 of the Constitution of India read with Section 482 of the CrPC seeking issuance of a writ declaring Rule 1224(iv) of the Delhi Prison Rules, 2018 as *ultra vires*. Further, the Petitioner is also seeking a grant of furlough for a period of 3 weeks.
3. The Petitioner is stated to be a Nigerian citizen, who has been convicted and sentenced for life imprisonment *vide* judgment of conviction dated 30th



March, 2022 in FIR No. 291/2011 registered at Police Station Tilak Nagar. The Petitioner has been convicted for the offences punishable under Sections 302/392/397/411/120B/34 of the Indian Penal Code, 1860 and Section 14 of the Foreigners Act, 1946.

4. The Petitioner sought furlough from the competent authority on various grounds which was not entertained in view of Rule 1224(iv) of the Delhi Prison Rules, 2018 which according to the Petitioner acts as an absolute bar for convicted foreigners to be released. The challenge was raised to the constitutional validity of the said provision.

5. In the meantime, the Petitioner was granted parole with effect from 12th June, 2024 vide order passed in **W.P. (Crl.) 3408/2024** dated 1st March, 2024 the same was extended for a further period of 6 weeks vide order dated 9th August, 2024 in **W.P. (Crl.) 2331/2024**. The Petitioner was to surrender on 21st September, 2024.

6. Today, the Court has been informed that the Petitioner has not surrendered and is currently absconding. The same has been confirmed by the Id. Standing Counsel for the State as well. The nominal roll which has been handed across the Court also reflects this position.

7. In view of the fact that the Petitioner is currently absconding and has failed to surrender, this Court is not inclined to go into the challenge to the said prison rules.

8. The authorities are free to proceed in accordance with law against the Petitioner. However, the issues raised in this petition are left open.

9. The present petition is dismissed and disposed of accordingly.



10. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

OCTOBER 15, 2024/sn/rks/pr