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

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Date of Decision: 09.01.2024+ **W.P.(CRL) 3207/2023**

SHASHI SEKHAR ALIAS NEERAJPetitioner

Through: Mr. Akshay Bhandari and Ms.
Megha Saroha, Advocates

versus

STATE GOVT OF NCT OF DELHI Respondent

Through: Mr. Amol Sinha, learned ASC
for the State with SI Kuldeep
Singh, P.S. V.K. North, Mr.
Kshitiz Garg, Mr. Ashvini
Kumar, Ms. Chavi Lazarus
and Mr. Arjun Singh Kadian,
Advocates**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

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 setting aside of impugned order dated 19.10.2023 passed by the respondent; and release petitioner on first spell of parole for a period of four (04) weeks.
2. The petitioner is presently confined in Central Jail No. 15,



Mandoli, New Delhi. By virtue of judgment dated 27.02.2002, the petitioner was convicted under Section 302/392 of Indian Penal Code, 1860('IPC') in case arising out of FIR bearing no. 538/1995, registered at Police Station, Vasant Kunj, Delhi and was sentenced to undergo rigorous imprisonment for life by the learned Additional Sessions Judge, Patiala House Courts, Delhi. His appeal against conviction i.e., CRL.A. 327/2002 was dismissed by this Court *vide* judgment dated 23.05.2007.

3. The petitioner seeks parole for a period of four weeks on the ground that his wife is suffering from cancer and he has to take care of her.

4. Learned Counsel appearing on behalf of petitioner submits that the petitioner is presently out of custody on furlough which was extended *vide* order dated 19.12.2023. It is stated that the wife of the petitioner is suffering from fourth stage of cancer and that the petitioner is the only one to take care of her. In these circumstances, it is prayed that the petitioner be granted parole for a period of 4 weeks.

5. On the other hand, learned ASC for the State submits that the petitioner is already on furlough and that according to Rule 1212 of the Delhi Prison Rules, 2018 there should be one month's gap between Parole and Furlough availed and vice – versa. It is prayed that considering the same the present petition should be dismissed.

6. This Court has heard arguments, and has gone through the case file, as well as the impugned order.



7. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 provide insight as to what objects are achieved by releasing a convict on parole. 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...”

8. Further, this Court has also perused Rule 1212 of the Delhi Prison Rules, 2018 which is reproduced as under:

“A convict would be released on parole for a period of maximum eight weeks in minimum two spells in a conviction year. However, the period of release in one spell should not be more than four weeks. There should be one month gap between parole and last furlough availed and vice-versa”.

9. This Court notes that Rule 1212 mandates that a prisoner may



be entitled for release on furlough only after one month gap between the last surrender and subsequent release on parole and vice-versa. However, in the present case, this Court cannot overlook the circumstances and the exigencies that have arisen in the family of the petitioner. Needless to say, while dealing with an issue relating to grant of Parole to a convict, the Courts are required to balance the interests of convict as well as of the society. However, the Courts are also required to consider cases, such as present one, with sensitivity and compassion, and that since the wife of the petitioner is suffering from last stage of cancer, the petitioner cannot be denied release on Parole immediately after availing the earlier furlough.

10. This Court in *Kamal Tyagi v. State*, W.P. (CRL) 322/2019, *vide* order dated 05.02.2019 in somewhat identical facts had allowed the release of prisoner overriding Rule 1212 of the Delhi Prison Rules, 2018.

11. Considering the aforesaid facts and circumstances, this Court is inclined to grant parole to the petitioner for a period of four (04) weeks on the following conditions: -

- i. The petitioner shall furnish a personal bond in the sum of Rs.25,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent concerned.
- 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 parole.



- iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.
 - iv. Immediately upon the expiry of period of parole, the petitioner shall surrender before the Jail Superintendent.
 - v. The period of parole shall be counted from the day when the petitioner is released from jail.
12. With the above terms, the present writ petition is disposed of.
13. A copy of this order be sent by the Registry to the Jail Superintendent concerned.
14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 09, 2024/ns