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

+ **W.P.(CRL) 3511/2023**

ANWAR UL HAQUE Petitioner

Through: **Mr. Kunal Malhotra, Advocate**

Versus

STATE (GNCT OF DELHI) Respondent

Through: **Mr. Yasir Rauf Ansari, ASC for State
with Mr. Alok Sharma & Mr. Vasu
Agarwal, Advocates with SI
Priyanka, P.S. Subhash Place.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

13.02.2024

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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 09.11.2023 bearing No. F/10(36811118)CJ/Legal/PHQ/2023/691525 passed by the respondent; and for modification of order dated 30.08.2023 bearing No. F/10(36811118) CJ/Legal/PHQ/2023/54357 to the extent that the petitioner be released on Furlough on furnishing his personal bond only at reduced surety to the satisfaction of the Jail Superintendent.

2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 15.02.2014, the petitioner was convicted under Sections 363/366/376(2)(f)/377/ 419/506-II of the Indian Penal Code,



1860 ('IPC') in case arising out of FIR bearing no. 236/2010, registered at Police Station, Saraswati Vihar, Delhi and was sentenced to undergo rigorous imprisonment for life by the learned Trial Court. His appeal against conviction i.e., CRL.A. 807/2014 was dismissed by this Court *vide* judgment dated 04.09.2014. Thereafter, the petitioner had preferred a SLP against the order passed by this Court which was dismissed *vide* order dated 22.11.2016.

3. Learned Counsel appearing on behalf of petitioner submits that the petitioner has already been granted furlough by the competent authority *vide* order dated 30.08.2023. However, the petitioner could not be released from the prison because he was unable to comply with the first condition imposed by the competent authority *vide* order dated 30.08.2023 whereby, he had been asked to furnish one surety of Rs 10,000/- along with a personal bond in the like amount for his release on furlough. Thereafter, the petitioner had preferred a modification application before the competent authority which was rejected *vide* order dated 09.11.2023. Aggrieved by the same, the petitioner has preferred the present petition. It is stated that the father of the petitioner used to stand surety for the petitioner earlier and that the petitioner had never misused the liberty granted to him. It is further submitted that since the father of the petitioner is old, he cannot travel from Bihar and further requires an attendant for his daily needs. Therefore, it is difficult for the petitioner to arrange for surety. It is thus prayed that the present petition be allowed.

4. On the other hand, learned ASC for the State submits that as per the status report dated 18.12.2023, it has been verified that both the parents of



the petitioner are above 70 years of age and cannot travel considering their old age.

5. This Court has heard arguments addressed on behalf of both the parties and has gone through the material placed on record.

6. This Court has perused order dated 30.08.2023 passed by the respondent granting Furlough to the petitioner herein and the same is reproduced as under:

“This has reference to the application filed by convict Anwar-Ul-Haque s/o AasMohd. presently lodged in your jail, wherein he has requested to grant 2nd spell of furlough of Current Conviction Year for a period of Two week as per Delhi Prison Rules 2018.

In this regard, I am directed to submit that the Competent Authority (Prisons) has considered and pleased to grant 2nd spell of Furlough to the above-named convict for a period of Two weeks from the date of his release subject to the following conditions: -

1 That he shall furnish One surety of Rs.10,000/- (Rupees Ten Thousand Only) alongwith a personal bond in the like amount for his release on Furlough to the satisfaction of the Superintendent, Central Jail No.2, Tihar, New Delhi.

2 That he shall maintain peace and good behavior during his period of release on Furlough.

3 That he will remain at his residence during the period of his release on furlough and his ordinary place of residence shall be: R/o Vill-Bhawanipur, Mozeh, PS-Nakerdei, Distt-Motihari, East Champaran, Bihar.

4 That he shall report at least once in a week to Police Station under which his ordinary place of residence falls, during the period of his release on furlough.

5 That he shall surrender to the Superintendent, Central Jail No.2, Tihar, Delhi on the expiry of his period of release on furlough.

You are further requested to forward the copy of this order to all concerned as mentioned below and also inform the date of release/status of the aforesaid convict to this office”.

7. Further, the order dated 09.11.2023 passed by the respondent rejecting the application for modification of order dated 30.08.2023 reads as under:



“This is in reference to application filed by convict Anwar-Ul-Haque s/o Aas Mod. for modification in furlough order dated 30.08.2023.

In this regard, I am directed to inform that the request of above said modification in the order dated 30.08.2023 to release on furnishing personal Bond instead of one surety was considered by the Competent Authority and same has been declined at this stage.

This is for your kind Information & necessary action with request to inform the convict under proper acknowledgement”.

8. This Court without getting into merits of the case, is inclined to modify the conditions for grant of 2nd spell of furlough, granted to the petitioner by the competent authority *vide* order dated 30.08.2023. The order dated 09.11.2023 passed by the competent authority rejecting the modification application of the petitioner is therefore set aside. In view thereof, instead of “*That he shall furnish One Surety of Rs 10,000/- (Rupees Ten Thousand Only) along with a personal bond in the like amount for his release on Furlough to the satisfaction of the Superintendent, Central Jail No. 2, Tihar, New Delhi*”, the Condition No. 1 of order dated 30.08.2023 passed by the competent authority shall now be read as:

“That he shall furnish a personal bond in the sum of Rs 5,000/-, with one cash surety of the like amount to the satisfaction of the Jail Superintendent concerned”.

9. In view thereof, the present writ petition stands disposed of.
10. Copy of this order be communicated through the Registry to the concerned Jail Superintendent.
11. The order be uploaded on the website forthwith.



SWARANA KANTA SHARMA, J

FEBURARY 05, 2024/hs

Click here to check corrigendum, if any