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

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***Reserved on: 01.04.2024***  
***Pronounced on: 25.04.2024***

+ **W.P.(CRL) 3634/2023**

AMIT @ NITU

..... Petitioner

Through: Mr. Faraz Maqbool, Mr.  
 Chinmayi Chaterjee, Mr.  
 Vismala Diwan, Mr. Chandan  
 Kumar & Ms. Sona Saneja,  
 Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao Standing  
 Counsel with Mr. Rahul Tyagi,  
 ASC & Ms. Priya Rai, Mr.  
 Sangeet Sibou, Mr. Jatin &  
 Mr. Mathew M. Philip,  
 Advocates along with SI Rajiv  
 Ranjan, P.S. Mayapuri.

**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant petition under Articles 226 and 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 ( 'Cr.P.C. ' ) has been filed on behalf of the petitioner seeking grant of first Spell of furlough for a period of three weeks.



2. The petitioner was convicted for commission of offence under Sections 365/392/302/201/34 of Indian Penal Code, 1860 ('IPC') in case FIR No. 165/2014, registered at Police Station Mayapuri, Delhi. He was sentenced to undergo rigorous imprisonment for life, for eight years, for six years and for five years, for offences under Sections 365/392/302/201/34 of IPC respectively. The appeal i.e. CRL.A. 783/2019 preferred against the order of the learned Trial Court was also dismissed on 26.06.2023.

3. On 03.11.2023, the concerned authority had dismissed the application for grant of first spell of furlough, filed by the petitioner, on the premise of adverse police report against the petitioner.

4. Learned counsel appearing on behalf of the petitioner argues that the petitioner wants to reform himself and wants to remain connected with mainstream of society and wants to re-establish social ties with family members. It is stated that he has a permanent address in Delhi and he will reside at the said address during grant of furlough. It is also stated that he has been in incarceration for nine years, and had not misused liberty of parole granted to him earlier for a period of nine months. It is stated that since March, 2021, the petitioner has been in jail and has not been granted any relief of furlough or parole. It is further argued that the furlough application of the petitioner was rejected by a two-line order, referring to some adverse police report against him, and therefore, the order rejecting his prayer for furlough be set aside and present petition be allowed.

5. Learned Standing Counsel for the State, on the other hand, opposes the present petition and states that the petitioner has been



convicted in a serious case of murder and robbery, and therefore, the relief prayed in the petition be not granted to him.

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

7. This Court has also gone through the order of the competent authority *vide* which the application for grant of furlough was declined, and the same is extracted hereunder:

“...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 police report of Delhi Police and Local Police wherein both have objected for release on parole/furlough...”

8. The order reflects that the application has been declined in view of police report wherein the police has objected to the release of petitioner either on parole or furlough. No reason has been mentioned in the rejection order as to what was the basis of filing an adverse police report. It is understandable that a person who is convicted under Section 302 of IPC is an offender in the eyes of the police and the law and a favourable report from the police cannot be expected. However, there is nothing to show on record that he has been of any threat to the society and his having committed any offence when he was released on parole in the past for about nine months i.e. from 01.07.2020 to 19.03.2021.

9. Rule 1223 of Delhi Prison Rules, 2018 provides the eligibility criteria for grant of furlough, which reads as under:

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

A. Good conduct in the prison and should have earned



rewards in last 3 Annual good conduct report and continues to maintain good conduct.

B. The prisoner should not be a habitual offender.

C. The prisoner should be a citizen of India...”

10. The nominal roll reveals that the petitioner is working as a Ward *Sahayak* and his conduct in the jail for the last 10 years i.e. overall jail conduct has been reported as satisfactory in the nominal roll, except for one punishment awarded in the year 2018. Even taking into account the same, his conduct for last six years would be satisfactory. The petitioner is also not a habitual offender, thereby being eligible under the relevant rules for grant of furlough.

11. The Delhi Prison Rules, 2018 itself stresses the importance of granting parole and furlough, by way of Rule 1200. Some of the objectives of releasing prisoners on parole or furlough are facilitating re-establishment of connections of the convicts with their families and social circles, fostering self-confidence and a positive outlook on life, maintaining awareness of external events, promoting physical and mental well-being, aiding in the recovery from the challenges of imprisonment, and incentivizing good behaviour and adherence to prison rules.

12. Therefore, considering the aforesaid facts and circumstances, this Court directs 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 once a week on every Sunday 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 telephone number shall be kept active and operational at all the times by the petitioner.
  - iv. The petitioner shall ordinarily reside at the address mentioned in the petition i.e. B-15, Shivani Enclave, Part-3, Kakrola, South West Delhi-110078.
  - v. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
  - vi. The period of furlough shall be counted from the day when the petitioner is released from jail.
13. In above terms, the present writ petition stands disposed of.
14. A copy of this judgment be sent by the Registry to the Jail Superintendent concerned.
15. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**APRIL 25, 2024/hs**