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

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Reserved on: 12.01.2024
Pronounced on: 24.01.2024

+ **W.P.(CRL) 3669/2023**

MANOJ SIROHI

..... Petitioner

Through: Mr. Rohan J. Alva, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao, Standing
Counsel for State with
Inspector Omvir Dabas, P.S.
Bawana

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant 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 issuance of writ of certiorari quashing Order No. F.10 (3475654) /CJ/Legal/PHQ/2023/70674 dated 16.11.2023 passed by the respondent; and/or issuance of writ in the nature of mandamus directing respondent to release the petitioner on furlough for a period of three (03) weeks.



2. The petitioner is presently confined in Central Jail No. 02, Tihar, New Delhi. By virtue of judgment dated 11.04.2013, the petitioner was convicted under Sections 302/201/120B/365/34 of Indian Penal Code, 1860 ('IPC') in case arising out of FIR bearing no. 21/2005, registered at Police Station, Bawana, Delhi and was sentenced to undergo imprisonment for life by the learned Additional Sessions Judge, Delhi. His appeal against conviction i.e., CRL.A. 1095/2013 was dismissed by this Court *vide* judgment dated 21.12.2015.

3. The petitioner seeks furlough for a period of three weeks for establishing social and family ties and to curb inner stress.

4. Learned counsel appearing on behalf of the respondent draws this Court's attention to the fact that the petitioner was released on emergency parole from 30.04.2020 to 20.05.2020, however, he did not surrender in time and later had surrendered himself on 31.08.2022 which is late by 01 year 06 months and 11 days. Therefore, it is prayed that the petition be dismissed.

5. On the other hand, learned counsel for the petitioner states that rejection order by the respondent is contrary to the fundamental principles of law. It is stated that the only reason for dismissal of the application of the petitioner for grant of furlough was the late surrender by the petitioner. It is stated that petitioner was again released on furlough for a period of 21days *vide* order dated 12.07.2023 and had surrendered on time before the jail authorities. It is stated that nothing adverse was reported against the petitioner



during the period of release on last furlough granted to him for a period of twenty-one days.

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

7. The application filed by the petitioner for release on furlough was rejected *vide* order dated 09.11.2023, by the respondent/competent authority, on the following one ground:

“This is in reference to the application for grant of furlough to convict Manoj Sirohi s/o Priya Pal Singh.

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 for the following reason(s):

1. The convict was released on emergency parole for on 03.04.2020 to 30.05.2020(08 weeks) further extended time to time due to Covid-19 and his surrender was fixed for 20.02.2021 but he did not surrender on time, later he surrendered himself on 31.08.2022(surrender late by 01 year 06 months and 11 days).
2. Superintendent jail has not recommended his application for grant of furlough”.

8. Thus, the application for grant of furlough filed by the petitioner has been rejected on the ground that he had not surrendered on time.

9. While considering the present writ petition for grant of furlough, the Court also has to remain conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and that as per the Nominal Roll, he has already remained in incarceration for



almost 13 years 11 months excluding remission of about 03 years. As regards the overall jail conduct of the petitioner, it has been reported as unsatisfactory. However, this Court has also taken note of the arguments addressed by learned counsel for petitioner in this regard, that immediately after the petitioner had been released on emergency parole in the year 2020, the Covid-19 pandemic had begun and the petitioner had been told by his counsel that he need not surrender as the convicts had been granted interim bails/furlough/emergency parole during the Covid-19 period. Be that as it may, in this Court's opinion, the petitioner was released on furlough for a period of three weeks *vide* order dated 12.07.2023 and had surrendered on time before the jail authorities and nothing adverse was reported against the petitioner during the period of release on last interim bail granted to him for a period of two weeks.

10. This Court also notes that the petitioner herein had earlier been released on furlough between the period 2017-2019 on nine occasions and had also been granted parole thrice, and he had surrendered always on time, except once i.e. when he was released during Covid-19 period, the observations *qua* which have already been recorded in the preceding paragraph.

11. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 which 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..."

12. Further, Rule 1223 provides criteria in which a prisoner can be released on furlough. The said rule reads as under:

"1223. In order to be eligible to obtain furlough, the prisoner must fulfil 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."

13. This Court cannot overlook the circumstances and the family exigencies that may have arisen in the family of the petitioner. Needless to say, while dealing with an issue relating to grant of Furlough 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 an opportunity may be provided to a convict to re-establish social ties.

14. Considering the aforesaid facts and circumstances, and also the fact that the petitioner has been granted parole/furlough, this Court is inclined to grant furlough to the petitioner for a period of three weeks from the date of his release on the following 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. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
- v. The period of furlough shall be counted from the day when the petitioner is released from jail.

15. In above terms, the present writ petition is disposed of.



16. A copy of this order be sent by the Registry to the Jail Superintendent concerned.

17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 24, 2024/zp