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

+ **W.P.(CRL) 2564/2024**

JHUNDE LAL

.....Petitioner

Through: Mr. Avneesh Saran, Adv.  
through V.C.

versus

STATE (G.N.C.T OF DELHI) .....Respondent

Through: Mr. Amit Peswani, Adv.  
for Ms. Nandita Rao, ASC  
for the State.  
SI Manoj Kumar, PS Nihal  
Vihar.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

% **22.08.2024**

**CRL.M.A. 25049/2024 (for exemption)**

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(CRL) 2564/2024**

3. The present petition is filed challenging the order dated 05.08.2024, passed by the Office of the Director General (Prisons), Tihar, Delhi whereby, the application filed by the petitioner seeking modification in the order dated 05.07.2024 was declined.

4. By order dated 05.07.2024, the petitioner was granted second spell of furlough for a period of two weeks on furnishing one surety of ₹10,000/- along with a personal bond in the like amount to the satisfaction of the Superintendent, Central Jail No.

3.

***W.P.(CRL) 2564/2024***

*Page 1 of 3*



5. The petitioner filed an application praying that he be released on furnishing cash surety along with a personal bond. The application seeking modification in the condition was dismissed on the ground that the petitioner's friend had recently visited him in Jail on 22.07.2024 and the said friend can stand surety for the petitioner. The authorities further held that four weeks had not lapsed since the furlough was granted to him.

6. The order granting furlough was passed on 05.07.2024, therefore, the ground that four weeks had not lapsed on 05.08.2024, is patently erroneous.

7. The petitioner is in custody for more than 13 and half years. The petitioner, admittedly, on an earlier occasion was also granted benefit of furlough as well as parole. It is not the case of the respondent that the petitioner on any of the earlier occasion has misused the benefit / liberty pursuant to the grant of furlough or parole.

8. Rule 1231 of the Delhi Prisons Rules specifically provides that in case the convict is not able to furnish the surety within a period of four weeks, the Superintendent may recommend for relaxation in the condition of the furlough to the competent authority and in case of the convict being released for the first time on furlough or in case it is subsequent furlough application, then the Superintendent shall release the convict on personal bond or any other suitable condition.

9. The Hon'ble Supreme Court had specifically noted that if the accused is not able to furnish bail bonds and sureties within one month from the grant of bail, the concerned Court may *suo moto* take up the case and consider whether the conditions of bail require modification / relaxation [*In Re: Policy Strategy for*



***Grant of Bail : 2023 SCC OnLine SC 483].***

10. When a categorical request was made in the form of an application seeking modification of the condition that the petitioner is not in a position to provide the surety and that four weeks had elapsed after the passing of the order granting furlough, in the opinion of this Court, the application ought not to have been dismissed by the respondent for the reason that a friend had recently visited the petitioner in Jail and he can stand surety for him.

11. It is a common knowledge that the convicts who are in custody for a long duration of time are not in a position to persuade even the family members to stand surety for them. In such circumstances, to insist that a friend who may have visited the convict in jail, to stand surety, would be onerous.

12. In view of the above, the present petition is allowed and the petitioner is directed to be released on second spell of furlough for period of two weeks on furnishing a cash surety of ₹10,000/- and a personal bond in the like amount, to the satisfaction of the Jail Superintendent. The other conditions as imposed by order dated 05.07.2024 shall remain same.

13. The petition is allowed in the aforesaid terms.

14. A copy of this order be sent to the Jail Superintendent for information and necessary compliance.

**AMIT MAHAJAN, J**

**AUGUST 22, 2024**

**“SK”**