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

+ **W.P.(CRL) 2602/2024**

RAJA RAM @ CHHOTA RAJA

.....Petitioner

Through: Ms. Nikita Sharma and Mr. Alok
Kumar, Advs.

versus

THE STATE THROUGH ITS CHIEF SECRETARYRespondent

Through: Mr. Rahul Tyagi, ASC with Mr.
Sangeet Sibou, Mr. Jatin, Mr. Mathew
M. Philip, Ms. Priya Rai and Mr.
Abhishek Tomar, Advs. and with
Insp. Naveen Rathi, Ps Mandawali.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

07.10.2024

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1. Writ petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of petitioner with the following prayers:-

*"a. Issue a writ in the nature of Mandamus directing the respondent to release the petitioner on 2nd spell of furlough for a period of Two Weeks for the present conviction year; and
b. Issue a writ or order in the nature of certiorari setting aside the impugned order of the respondent dated 05.08.2024;"*

2. Issue notice. Learned ASC for the State appears on advance notice and accepts notice.

3. Petitioner was convicted vide judgment dated 12.10.2009 and sentenced to life imprisonment for offence punishable under Section 302 IPC. CRL.A. No. 597/2010 against the judgment of conviction and order on sentence alongwith SLP preferred on behalf of petitioner are stated to



have been dismissed.

4. The grievance of the petitioner is that despite being granted furlough on an earlier occasion vide order dated 29.04.2024 passed by a Co-ordinate Bench of this Court, in W.P.(CRL) 1117/2024, the 2nd spell of furlough has been again declined vide impugned order dated 05.08.2024 by the Competent Authority for the following reasons:

“1.As per Para 1223 (i) of Delhi Prison Rules 2018-good conduct in the prison and should have earned rewards in last 3 Annual Good Conduct Report and continues to maintain good conduct. Hence, prisoner is not fulfilling criteria referred in Para 1223 (i) of Delhi Prison Rules 2018 as the convict has not earned last three Annual Good Conduct Report being multiple(12) punishments (last punishment dated 12.07.2021) against him for breaking prison rules.”

Learned counsel for the petitioner further clarifies that petitioner could not surrender in time in the year 2021 due to COVID-19 and emphasizes that the petitioner has not misused the liberty of furlough on the last occasion.

5. Learned ASC for the State opposes the petition on the ground that petitioner had failed to surrender in time, after he was granted emergency parole in the year 2021.

6. Vide order dated 29.04.2024 passed by Co-ordinate Bench of this Court in W.P.(CRL) 1117/2024, petitioner was extended benefit of 1st spell of furlough for a period of four weeks from the date of his release, though similar objection was raised on behalf of respondent.

7. This Court is of the considered opinion that since benefit of the 1st spell of furlough has been earlier granted to the petitioner vide order dated



29.04.2024 in W.P. (CRL) 1117/2024 passed by Co-ordinate Bench of this Court, there does not appear to be any reason to deny the petitioner the benefit of 2nd spell of furlough. Moreso, since the petitioner did not misuse the liberty of furlough granted vide order dated 29.04.2024.

8. In the facts and circumstances of the case, in the absence of any fresh misconduct or punishment against the petitioner after grant of furlough vide order dated 29.04.2024, there does not appear to be any valid ground for denying the benefit. Accordingly, in exercise of power under Article 226 of the Constitution of India, petitioner is granted 2nd spell of furlough for a period of two weeks from date of his release on furnishing a personal bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand Only) with one surety in the like amount to the satisfaction of the Jail Superintendent concerned and subject to the following conditions:

- i. Petitioner shall not leave the country without prior permission of this Court;
- ii. He shall provide his mobile number to the SHO of local Police Station and shall keep the same active at all times and any change in the mobile number will only be after prior intimation to the SHO concerned;
- iii. He shall not indulge in any criminal activity, directly or indirectly, during the period of furlough; and
- iv. He shall surrender before the Jail Superintendent concerned on expiry of the furlough period.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy this order be forwarded to Superintendent, Jail concerned for



information and compliance.

OCTOBER 7, 2024

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ANOOP KUMAR MENDIRATTA, J