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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2919/2024**
SANDEEPPetitioner

Through: Mr. Mohit Chuarasia, Ms. Sangeeta
Kataria, Ms. Ruchi Chaurasia and Ms.
Suchetan, Advs.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Yasir Rauf Ansari, ASC for the
State with Mr. Alok Sharma, Mr. Vasu
Agarwal and Mr. Abil Ali Siddiqui,
Advs and with SI Pinky, PS V K
North.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

23.09.2024

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1. A 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 certiorari setting aside the order Ref. F.14/SCJ-14/FURLOUGH/AS(CT)/2024/1624 dated 28.08.2024 passed by the DG (Prisons) whereby dismissing the application of the petitioner for release on furnishing personal bond and cash surety;

b. Issue a writ of mandamus directing the respondent to release the petitioner on furlough/parole upon furnishing a cash surety of Rs.10,000/- in lieu of surety."

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

3. In brief, as per case of the petitioner vide order dated 30.05.2024, the competent authority was pleased to grant 2nd spell of furlough to the



petitioner/convict for a period of two weeks from the date of his release subject to furnishing surety of Rs. 10,000/- (Rupees Ten Thousand Only) alongwith personal bond in the like amount to the satisfaction of the Superintendent, Central Jail No. 14, Mandoli, Delhi apart from imposing other conditions. However, the petitioner has been unable to furnish the surety bond and his requests for modification of order dated 30.05.2024 by directing release on personal bond has been declined by the Competent Authority.

4. Learned counsel for the petitioner submits that petitioner did not misuse the privilege of furlough which was earlier granted to him and presently is unable to furnish the surety bond since the parents of petitioner are at an advanced age and his brother is suffering from several ailments.

5. Learned ASC for the State supports the order passed by the Competent Authority and submits that furnishing of surety bond ensures that convict does not misuse the privilege of furlough, as well as would persuade the petitioner to surrender in time.

6. The release of petitioner on personal bond has been declined vide order dated 28.08.2024 by the Competent Authority for the following reasons:

“1) He has undergone only 07 years inside jail out of life sentence imposed upon him. He has involved for offence of kidnapping and rape. He is resident of Gonda, U.P. with no surety to furnish, it will be difficult to secure his surrender in jail after furlough.”

7. Petitioner belongs to a weaker section of society and cannot be denied the benefit for his incapacity to furnish the surety bond though he is willing to deposit the cash amount in lieu of surety bond. Petitioner has not misused the benefit of furlough which was earlier granted to him and the reasons furnished by him cannot be doubted, as despite order dated 30.05.2024, he has



not been able to seek the benefit of furlough for a considerable period.

Considering the totality of facts and circumstances of the case, this Court is of the considered opinion that condition of furnishing of surety bond as imposed vide order dated 30.05.2024 passed by the Competent Authority be modified to the extent that petitioner be released on his furnishing personal bond and deposit of cash security of Rs. 10,000/- to the concerned Jail Superintendent. The remaining terms and conditions as imposed vide order dated 30.05.2024 shall remain the same.

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

A copy of this order be forwarded to concerned Jail Superintendent for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 23, 2024

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