



2024:DHC:8120



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

% **Date of order: 15th October, 2024**

+ **W.P.(CRL) 3194/2024**

PURSHOTTAM CHOPRA

.....Petitioner

Through: **Mr. Paron Kumar, Advocate**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Mr.Amol Sinha, ASC for the State
with Mr.Kshitiz Garg, Mr.Ashvini
Kumar & Ms. Chavi Lazarus,
Advocates alongwith SI Narender, PS
Vikaspuri**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter “Cr.P.C.”) (now Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) has been filed on behalf of the petitioner seeking the following reliefs:-

“A. Grant furlough for a period of 4 weeks in FIR No.780/1997, u/s 302/34 IPC, P.S. Vikas Puri, Delhi;

B. Pass any such further Order(s)/direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”



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2. Learned counsel appearing on behalf of the petitioner submitted that vide judgment and order dated 30th January, 1991/2nd February, 1999, the petitioner was convicted under Section 302/34 of the Indian Penal Code, 1860 (hereinafter “IPC”) and was sentenced to undergo rigorous imprisonment for life by the learned Trial Court in FIR no. 780/1997 registered at Police Station – Vikas Puri, Delhi.
3. It is submitted that on 23rd May, 2011, the Coordinate Bench of this Court, while dismissing the appeal (Crl. Appeal No. 121/1999) of the petitioner, upheld the conviction as well as the sentence of the petitioner.
4. It is submitted that the petitioner got entitled for premature release under the policy date 16th July, 2004 as the petitioner had already undergone more than 14 ½ years of sentence and 18 years with remission.
5. It is submitted that the petitioner has been granted parole/furlough from time to time and every time the petitioner has surrendered on time. It is further submitted that the petitioner filed writ petition bearing W.P (C) no. 268/2024 in this Court, thereby, seeking pre mature release under the policy dated 16th July, 2004 and extension of furlough.
6. It is submitted that the wife of the petitioner expired on 29th August, 2024 and vide order dated 30th August, 2024, the aforesaid writ petition was disposed where the petitioner’s furlough was extended for six weeks and it was directed by the Court that the petitioner’s application for remission be considered within six weeks in accordance with the pre mature release policy dated 16th July, 2004.
7. It is submitted that the petitioner was released on furlough on 3rd



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September, 2024 for forty two days and the petitioner has to surrender on 15th October, 2024. It is submitted that the last rites of the wife of the petitioner are to be performed and four weeks further are required for the petitioner to perform all the rituals.

8. It is submitted that the petitioner has already undergone imprisonment for more than 14 ½ years of sentence and 18 years with remission and his conduct has been satisfactory, and has never violated any of the conditions imposed upon the petitioner for his release on parole/furlough.

9. Therefore, it is prayed that the instant petition may be allowed and reliefs be granted as prayed for.

10. *Per contra*, the learned ASC appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed as the petitioner is not eligible for extension of the furlough as per the law and thus, the instant petition may be dismissed being devoid of any merits.

11. Heard the learned counsel appearing on behalf of the parties and perused the material placed on record.

12. By way of the present writ petition, the petitioner is seeking extension of furlough for a period of four weeks as he has to perform last rites and rituals of his wife, who expired on 29th August, 2024.

13. This Court has meticulously perused the record available before this Court including the order dated 30th August, 2024 passed by the Coordinate Bench of this Court in W.P (Crl). No. 268/2024. Upon perusal of the contents of the said order, it is made out that the said petition was filed



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seeking pre mature release of the petitioner and extension of furlough for a period of six weeks. The Court had passed the order by directing the concerned authorities to consider the petitioner's application for remission within a period of six weeks and further, the petitioner's furlough was extended for a period of six weeks.

14. It is pertinent to mention herein that the petitioner was earlier released on furlough on 3rd September, 2024 for forty two days which was extended time to time and vide the aforesaid order, the petitioner's furlough was again extended and he had to surrender on 15th October, 2024. It is noted that the reason for extension observed in the order dated 30th August, 2024 is that the petitioner's wife had been expired. The relevant extract of the said order is as under:

“18. Since the petitioner had been released on Furlough which has been extended from time to time and considering that his wife has expired on 29.08.2024, the petitioner has sought extension of Furlough by six weeks. It is hereby directed that the Furlough be extended for six weeks on the following terms and conditions:..”

15. This Court is of the view that as per the settled position of law, although furlough can be claimed without a reason, the prisoner does not have an absolute legal right to claim furlough. The same was observed by the Hon'ble Supreme Court in ***State of Gujarat v. Narayana*, 2021 SCC OnLine SC 949**. Furthermore, in ***State of Maharashtra v. Suresh Pandurang Darvakar*, (2006) 4 SCC 776**, the Hon'ble Court has observed that furlough is allowed periodically, irrespective of any particular reason,



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merely with a view to enable the prisoner to have family association, family and social ties and to avoid ill-effect of continuous prison life. In the said judgment, it was also held that since furlough is granted for no particular reason, it can be denied in the interest of society.

16. Therefore, bearing in mind the aforesaid judicial *dicta* as well as the observation made *qua* the order dated 30th August, 2024, this Court is of the considered view that the petitioner has sought extension of furlough granted to him time and again, and the same has always been allowed, however, on the last occasion, the petitioner's furlough was extended for a period of six weeks which gets expired on 15th October, 2024. It is observed that the reason for extension of petitioner's furlough on the last occasion was to enable him to perform last rites and rituals of his wife, who had expired on 29th August, 2024. The petitioner in the instant petition as well has sought for extension of furlough on the same ground, however, it is imperative to state here that the said reason is not cogent enough to allow the present petition as there is no occasion for extending furlough as the ground taken by the petitioner in the present petition was already considered in the aforesaid writ petition.

17. In view of the above facts and circumstances, this Court is of the considered view that the captioned petition is not a fit case to exercise extraordinary powers conferred upon this Court under Article 226 of the Constitution of India and thus, the present petition is liable to be dismissed being bereft of any merits.

18. Accordingly, the instant petition stands dismissed along with the



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pending applications, if any.

19. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

OCTOBER 15, 2024

Dy/ryp/av

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: DAMINI YADAV
Signing Date: 21.10.2024
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