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

+ **W.P.(CRL) 3330/2024**

RAJ KUMAR

.....Petitioner

Through: Mr. Tushar Gupta, Mr. Parinay
Gupta, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC for State
along with Ms. Charu Sharma, Mr.
Arjit Sharma, Ms. Nikunj Bindal,
Advocates & Insp. Arvind Kumar,
PS: Kirti Nagar.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
10.12.2024

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1. As per the Status Report, it is confirmed that the petitioner has spent 12 years 9 months and 15 days in custody as on 27th November, 2024 and his Jail conduct is satisfactory. Since he was convicted for commission of offence of murder after rape of a three-year-old child, his case is stated to fall under Rule 1225 of Delhi Prison Rules, 2018 (“**DPR**”) which requires a specific recommendation of the Deputy Inspector General (Range) (“**DIG**”). The said recommendation was rejected by the DIG by order dated 23rd July, 2024, appended as Annexure-A to the Status Report.
2. Requisition was made by this Note dated 12th July, 2024 for specific recommendation. It was stated in the Note that no family member of the convict resides in Delhi and the convict’s native place is Village Patluka,



P.S. Dhangai, District Gaya, Bihar. The wireless seeking police verification from Superintendent of Police, Gaya, was flashed throughout April and June, 2024, but the report was not received. Applying Rule 1226(xi) of the DPR, it was stated that since no report was received, it was presumed that they have no objection to grant of furlough. The Note, therefore, recommended his consideration for grant of furlough for the current conviction year.

3. It was noted that in the report of the Welfare Officer, no comments were there regarding release on furlough. It is also stated that if furlough is allowed, he can be directed to furnish two sureties of amount Rs.10,000/- along with a personal bond.

4. The DIG's noting, however, mentions that P.S. Kirti Nagar submitted that there is no verification address and, therefore, he could jump furlough and the ACP also submitted that he may cause breach of peace in the society. The recommendation was therefore rejected.

5. Considering that the petitioner was given parole from 25th January, 2024 to 23rd February, 2024 by this Court upon verification of the Bihar address, as is confirmed by the ASC for State, the reasons by the DIG may not be tenable.

6. It is quite clear from the Note appended as Annexure-A to the Status Report, that though the Delhi address could not be verified, there is no report received regarding the verification of Bihar address. However, considering that the Bihar address is verified during grant of parole, rejecting the furlough may be reconsidered by the DIG (Prisons)/Competent Authority.

7. In this regard, the order granting parole by judgment dated 19th October, 2023 titled ***Jamahir @ Jawahar Paswan v. State (GNCT of Delhi)***



2023:DHC:7751 records in paragraph 15 that the address of the petitioner in Bihar has been verified. It is also submitted that reasons for the rejection of parole, as stated in paragraph 5 of the said judgement also related to the gravity of offence of having committed murder after rape.

8. This Court, however, while granting parole relied upon *inter alia* the decision of the Supreme Court in ***Asfaq v. State of Rajasthan***, (2017) 15 SCC 55.

9. There is also nothing on record to state that the petitioner misused his liberty while on parole except that he states that he did not file an SLP during the period of parole (*this statement is appended as Annexure-B to the Status Report*).

10. Counsel for petitioner states, on instructions, that as per the petitioner, he had fallen ill during the period of parole and could not manage to instruct his counsel adequately since the parole expired by that time.

11. These aspects are being recorded above since they may be necessary for overall assessment by the Competent Authority for grant of furlough in accordance with extant Rules.

12. Petition is disposed of in the above directions.

13. The Competent Authority may take the decision in the next four weeks.

14. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

15. Order be uploaded on the website of this Court.

ANISH DAYAL, J

DECEMBER 10, 2024/ak/sc