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

+ **W.P.(CRL) 102/2025**

AZIM KHAN

.....Petitioner

Through: Mr. Chetan Bhardwaj, Mr. Priyal Bhardwaj and Ms. Kavita Sharma, Advocates.

versus

STATE GNCT OF DELHI & ANR.

.....Respondents

Through: Mr. Rahul Tyagi, ASC (Criminal) with Mr. Mathew M. Philip, Mr. Sangeet Sibou and Mr. Aniket Kumar Singh, Advocates for State.
SI Sudhir Rathi, P.S. Burari.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.02.2025

1. That Petitioner has been convicted in Sessions Case No. 65/2011 arising out of FIR No. 112/2011 under section 302 of the Indian Penal Code, 1860¹ registered at Police Station Burari vide Judgment dated 31st October, 2014 and order on sentence dated 1st November, 2014, whereby he has to undergo imprisonment for life and pay fine of INR 10,000/-.
2. The Petitioner, through the present petition under Article 226 of the Constitution of India, 1950, seeks to challenge the order dated 24th December, 2024² denying the Petitioner's request for release on 1st Spell of furlough.

¹ "IPC"

² "Impugned order"



3. The reasons for denial, as noted in order dated 24th December, 2024, are as follows:

- i. *That convict **Azim Khan s/o Jamil Ahmed** is serving life sentence has completed 10 years and 03 months in custody.*
- ii. *That he was released on one month w.e.f. 27.01.2017 to 27.02.2017 but he surrendered 04 days late on 04.03.2017.*
- iii. *He was released on Emergency Parole w.e.f. 14.05.2021 to 12.08.2021 thereafter same was extended time to time but he was re-arrested on 30.11.2022 in another case FIR No. 168/2021, u/s 21/29 NDPS Act, PS-Crime Branch during Emergency Parole. He has violated the condition for release on emergency parole.*
- iv. *A punishment dated 30.11.2022 was issued by Superintendent jail for violation of condition of emergency parole.*
- v. *The Superintendent jail has not recommended for grant of furlough.*
- vi. *As his overall conduct found to be unsatisfactory and furlough is purely an incentive for maintaining good conduct, therefore, his request for furlough cannot be acceded to.”*

4. Counsel for the Petitioner points out that these very grounds for rejection were considered by this Court on 29th April, 2024, in W.P.(CRL) 858/2024, yet it was considered appropriate to allow Petitioner's request for parole. These grounds were also considered by this Court in W.P.(CRL) 2485/2024, when, by order dated 12th September, 2024, the Court granted the first spell of furlough.

5. Mr. Rahul Tyagi, ASC (Criminal) for the State, strongly opposes the application asserting that the Petitioner's involvement in criminal activities disqualifies him from receiving the relief requested in the present petition.

6. Heard. As per the nominal roll dated 19th February, 2025, the Petitioner has been in custody for over 10 years and 6 months. The jail conduct of the Petitioner for the last one year has been satisfactory. The



overall jail conduct takes note of the unsatisfactory conduct, which includes the re-arrest in another case (FIR No. 168/2021 under section 21/29 of the NDPS Act) during the period when the Petitioner was out on emergency parole. However, it must be noted that the arrest, in relation to FIR No. 168/2021 took place in 2022 and the Petitioner was granted bail in the said case. Two years have passed since the arrest and in this duration, the Petitioner has been granted parole and furlough on two separate occasions. Moreover, the Petitioner is a single parent to two minor daughters and plays a crucial role in their care and support. Maintaining this connection is essential for his mental well-being. Given these circumstances and the fact that the Court has previously granted similar reliefs, the request is granted, and the Petitioner is directed to be released on furlough for a period of three weeks.

7. Accordingly, the order no. F. 10(003489250)/CJ /Legal/PHQ /2024/M-1581 dated 24th December, 2024, passed by the Respondent No. 2, rejecting the furlough application of the Petitioner, is hereby quashed. The Respondents are directed to release the Petitioner on first spell of furlough for a period of 3 weeks, to re-establish the social-ties with family members, on furnishing of a personal bond in the sum of Rs. 15,000/- with one surety of the like amount subject to the satisfaction of the Jail Superintendent/Trial Court/Duty Metropolitan Magistrate, and further subject to the following conditions:

- (i) The Petitioner shall not leave the NCT of Delhi during the period of furlough, without the prior permission of this Court.
- (ii) The Petitioner shall provide the mobile number(s) to the concerned Jail Superintendent and SHO - P.S. Burari, Delhi, at the time of his release,



which mobile number shall be kept in a working condition at all times.

(iii) The Petitioner shall appear before the SHO - P.S. Burari, Delhi, on every Monday between 11:00 AM and 11:30 AM to mark his presence. However, he shall not be kept waiting for longer than one hour for this purpose.

(iv) The Petitioner shall positively surrender before the concerned Jail Superintendent on the expiry of the period of furlough.

8. With the above directions, the present petition stands disposed of.

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

SANJEEV NARULA, J

FEBRUARY 24, 2025

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