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

+ **W.P.(CRL) 136/2025**

ASHOK VISHWAKARMA @ SIR JI

.....Petitioner

Through: Mr. Shannu Baghel, Mr. Sudhir Kumar, Mr. Ganpat Ram & Mr. Vivek Kumar, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC, Crl., Mr. Kshitiz Garg, Mr. Ashvini Kumar, Ms. Chavi Lazarus & Ms. Sanskriti Nimbekar, Advocates.
W/S.I. Priyanka Saini, PS Najafgarh, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

16.01.2025

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CRL.M.A. 1150/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

W.P.(CRL) 136/2025

3. The present Petition under Article 226 of the Constitution of India read with Section 528 of the Code of Criminal Procedure, 1973 has been filed on behalf of the Petitioner to quash the Order dated 27.12.2024 *vide* which the Furlough Application of the Petitioner has been rejected on the ground that the Petitioner surrendered himself with a delay of 4 days.



4. It is submitted that the Petitioner was released on Furlough for two weeks w.e.f. 20.11.2023 to 05.12.2023, but a stay was granted by this Court *vide* Order dated 23.11.2023 passed in W.P.(CRL) 3457/2023. The said stay was extended by the Apex Court in SLP (Crl.) No. 1985-1987/2024. However, the SLP was dismissed by the Apex Court *vide* Order dated 01.01.2024 with the direction to the Petitioner to surrender immediately, but the Petitioner surrendered on 05.10.2024 i.e., with a delay of 4 days
5. It is asserted that though the Petitioner was being represented through his counsel before the Apex Court on 01.10.2024. However, the said Order got uploaded on 05.10.2024 and he immediately surrendered before the concerned Jail Superintendent on 05.10.2024.
6. It is claimed that the delay of 4 days in surrender was not intentional but it was caused because of the reasons stated therein.
7. It is submitted that the impugned Order dated 27.12.2024 denying the Furlough to the Petitioner, may be quashed.
8. ***Issue notice.***
9. Mr. Amol Sinha, learned Additional Standing Counsel appearing on advance Notice, accepts Notice on behalf of the State and submits that the Petitioner was being duly represented by his counsel before the Apex Court on 01.10.2024 and was well aware of the Order of the Apex Court, directing him to surrender
10. Furthermore, the explanation given is that the Petitioner was based in Lucknow, Uttar Pradesh and it took him four days to surrender when the Order got uploaded on 05.10.2024 and when he saw the same, he surrendered himself before the concerned Jail Superintendent.
11. It is submitted that it cannot be overlooked that there was a stay for a



period of almost 11 months. The Petitioner being based in Lucknow, Uttar Pradesh and was intimated by his counsel about the dismissal of his SLP on 01.10.2024 before the Apex Court which directed the Petitioner to surrender. It would have taken him one day to travel to Delhi and to surrender, had he seen the Order on 05.10.2024, when it got uploaded. In fact, when he came to know about the Order on 01.10.2024 itself, there was no reason for him to surrender after four days. The Furlough, therefore, has been rightly rejected.

12. Submissions heard.

13. In terms of Order dated 01.10.2024 of the Apex Court, the surrender was to be made forthwith. It cannot be overlooked that the Petitioner was based in Lucknow, Uttar Pradesh.

14. The delay of 4 days in surrender cannot be held to be so motivated and contumacious as to deny him the right of Furlough in future.

15. In view of above, the impugned Order dated 27.12.2024 rejecting the Furlough Application of the Petitioner, is hereby quashed and set aside.

16. The Petitioner is at liberty to move a fresh Application for Furlough before the Jail Authority which may be considered in accordance with law.

17. Accordingly, the Petition is disposed of.

NEENA BANSAL KRISHNA, J

JANUARY 16, 2025

S.Sharma