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

+ **W.P.(CRL) 204/2025**

ATBIR

.....Petitioner

Through: Mr. Anup Kr. Das, Mr. Uday
Chauhan, Ms. Aayushi Gupta,
Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Rahul Tyagi, ASC (CrI.) for the
State with Mrs. Mathew M. Philip,
Mr. Sangeet Sibou, Mr. Aniket
Kumar Singh, Advocates along with
SI Sangeeta, PS Mukherjee Nagar

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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07.02.2025

CRL.M.A. 3880/2025 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Disposed of.

CRL.M.A. 3879/2025 (for early hearing)

4. For the grounds and reasons stated in the application, the same is allowed and with the consent of the parties, the main writ petition is taken up on board by today itself.
5. The application is allowed and disposed of.



W.P.(CRL) 204/2025

6. Through the present writ petition, the Petitioner has invoked this Court's jurisdiction under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeking quashing of the order bearing No. F.10(003574359)/CJ/Legal/PHQ/2024/4-1663 dated 27th December, 2024, passed by the Director General of Prisons, Tihar, New Delhi as well as directions for release of the Petitioner on the first spell of furlough for a period of 21 days.

7. The Petitioner is presently serving a life sentence, with the condition to remain in custody till the remainder of his natural life and has already undergone more than 27 years of incarceration.

8. By way of the impugned order dated 27th December, 2024, the Petitioner's request for grant of furlough was declined for the following reasons:

"Sub: Regarding furlough to Atbir s/o Sh, Jaswant Singh in case FIR No. 24/1996, u/s 302/34 IPC, PS- Mukherjee Nagar, Delhi.

Ref: F.2/SCJ-2/CJ-2/AS(Furlough)/2024/818, Dated: 08.11.2024.

Hon'ble President of India has passed an order dated 17.01.2013 whereby his Death sentence commuted to Life Sentence with the condition to remain in custody till reminder of natural life without parole and without remission.

*2. He was released on 03 weeks furlough w.e.f. 20.11.2023 to 11.12.2023 and he was granted stay from surrendering by the Hon'ble Apex Court. Further, the Hon'ble Apex court has dismissed the petition of the convict on 01.10.2024 and directed to surrender immediately but he surrendered late by 05 days on 06.10.2024. **A punishment was recorded against him for late surrender. He has violated the condition of furlough. Hence, his furlough stands rejected.** The convict may be informed under proper acknowledgement."*

¹ "BNSS"



[Emphasis added]

9. As evident from the above, since there was a delay of five days on the part of the Petitioner in surrendering when he was released for furlough on a previous occasion, his request for furlough has been denied *vide* the impugned order. Due to the delay in surrender, a punishment ticket was also issued to the Petitioner.

10. Counsel for the Petitioner explains that due to a lapse on the part of the Petitioner's Advocate, the Petitioner was unaware of the order dated 01st October, 2024, passed by the Supreme Court, whereby his petition was dismissed, the interim stay on his surrender was vacated, and he was required to surrender immediately. At the time the order was uploaded, the Petitioner was residing in Haryana and was not informed of the Supreme Court's decision by his Advocate. Counsel further states that the Petitioner only became aware that the stay order had been vacated through fellow inmates and upon learning of this development, he immediately surrendered before the Jail Authorities.

11. Counsel for the Petitioner further submits that, by order dated 4th January, 2025, the punishment imposed on the Petitioner for the delay in surrendering has been set aside. In the said order, the Appraising Judge noted that multiple inmates had filed connected Special Leave Petitions and writ petitions before the Supreme Court, which were collectively decided by way of a common order dated 1st October, 2024. However, owing to various factors and a *bona fide* misunderstanding, the Petitioner remained unaware of his immediate obligation to surrender before the Jail Authorities. In light of this, counsel contends that the primary basis for rejecting the Petitioner's request for furlough no longer holds and the denial of furlough is therefore



unsustainable.

12. The Court has considered the submissions of the Petitioner. The provision of furlough is a benevolent one which is designed for the welfare of prisoners. Although, there is a delay of 05 days on the part of the Petitioner in surrendering before the Jail Authorities, the Court takes note of the peculiar circumstances of the present case. The punishment imposed on the Petitioner for the delay has been set aside by the Appraising Judge; therefore, there are no justifiable ground to deny him the benefit of furlough. The Court finds merit in the present petition and is inclined to grant the relief sought.

13. Accordingly, the order no. F. 10(003574359)/CJ /Legal/PHQ /2024/4-1663 dated 27th December, 2024 passed by the Respondent rejecting the furlough application of the Petitioner is hereby quashed. The Respondent is directed to release the Petitioner on first spell of furlough for a period of 21 days, 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. Mukherjee Nagar, 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. Mukherjee Nagar, 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.

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

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

SANJEEV NARULA, J

FEBRUARY 7, 2025/ab