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

Date of decision: 24.02.2025

+ W.P.(CRL) 208/2025

MAHESH@VIKRAM

.....Petitioner

Through: Mr. Anup Kr Das and Mr. Uday
Chauhan, Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel for
the State with Ms. Priyam Agrawal,
Advocate

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This is a petition filed under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking parole for a period of period of eight (8) weeks to reconstruct an old house, which is in a bad condition and to maintain social ties with the society and family members on account of continuous long incarceration.

2. Learned counsel for the Petitioner states that the Petitioner was constrained to file this Petition, as his application dated 13.12.2024 for seeking parole was not decided by the competent authority within the time period prescribed under the Delhi Prison Rules, 2018.

2.1. He states that during the pendency of this petition, this Court by its Order dated 21.01.2025 had directed the competent authority to decide the



Petitioner's application dated 13.12.2024 seeking parole, within three weeks. And, in pursuance to the said order, the competent authority has by its order dated 14.02.2025 rejected the Petitioner's application vide on the following grounds: -

2.1.1. As per the Nominal Roll, there is a misconduct reported against the Petitioner, as he surrendered late by 03 days after expiry of interim bail in the year 2022.

2.1.2. As per the police verification report, the grounds of parole are not genuine; as the house is already repaired and the Petitioner may commit similar crime, as the Petitioner is also involved in three another case.

3. Learned counsel for the Petitioner states that the misconduct reported in the Nominal Roll of the Petitioner cannot be a ground for denying grant of parole to the Petitioner. He states that incident of late surrender of 3 days by the Petitioner, when the Petitioner was on interim bail pertains to the year 2022. And it is pertinent to note that after 2022, the Petitioner has been granted parole in the year 2023 and furlough in the years 2023 as well as 2024. He states that, therefore, the competent authority cannot deny parole to the Petitioner on the basis of misconduct reported in the year 2022.

3.1. He states that the Petitioner has been in custody for more than 10 years and, therefore, in view of the long incarceration period, the Petitioner wishes to re-establish social ties and maintain his family.

3.2. He states that the objective of Parole as envisaged in Rule No. 1200 of the Delhi Prison Rules, 2018, squarely covers the reason stated by the Petitioner for availing Parole i.e., for maintaining social ties.

4. Learned ASC refers to that order passed by the competent authority



dated 14.02.2024 which records that the Petitioner's house does not require any repair. He however, fairly submits that as per the status report dated 21.02.2025 placed on record, it is recorded therein that the rooms of the first floor of the Petitioner's house are made with bricks and teen shade, which needs to be repaired.

5. He confirms that the Petitioner has surrendered on time, on the last occasion, when he was released on furlough on 12.11.2024 for a period of 2 weeks by DG Prisons and the same was extended by one week till 02.12.2024 by this Court.

6. This Court has considered the submissions of the parties.

7. The reason furnished by the Petitioner for seeking parole is duly recognized in the Parole/Furlough: guidelines 2010 issued vide notification dated 17.02.2010, as well as Rule 1208 of the Delhi Prison Rules, 2018.

8. The Nominal Roll dated 18.02.2024 records that the Petitioner's conduct is satisfactory and in fact he has been allotted labour as Adalat Sahayak. However, the competent authority in the impugned order has observed that the conduct of the Petitioner is unsatisfactory as he surrendered 03 days late when he released on interim bail in the year 2022.

9. Keeping in view the humanitarian objective behind granting parole and considering the fact that the said issue was more than two (2) years old, the competent authority ought to have evaluated the conduct of the Petitioner for the immediately preceding year, so as to incentivise the Petitioner to maintain good conduct. The competent authority failed to consider that the Petitioner has also been released on parole in the year 2023 and on furlough in the years 2023 and 2024 as well, which shows that the delay of three (3) days of surrender in 2022 has ceased to be a material fact;



the grant of subsequent furloughs and due surrender were relevant facts to be considered. The plea of the Petitioner that he is seeking parole to repair his house seems to be genuine and the same is recorded in the status report dated 21.02.2025 filed by State. This Court, therefore, finds that the competent authority failed to consider relevant material while considering the Petitioner's application for parole and thus the impugned order dated 14.02.2024 is set aside.

10. In view of the facts noted hereinabove this Court is satisfied that the Petitioner is entitled to be released on parole for a period of four (4) weeks upon furnishing a personal bond in the sum of Rs. 10,000/- with one surety of the like amount, to the satisfaction of the concerned Jail Superintendent, and subject to the following terms: -

- i. The Petitioner shall not leave the country without prior permission of the Court and will remain at his residence during the period of his release on parole and his ordinary place of residence shall be the address furnished in the memo of parties.
- ii. The Petitioner shall provide his mobile phone number to the concerned Jail Superintendent and S.H.O concerned at the time of release, which shall be kept in working condition at all times.
- iii. The Petitioner shall report on every alternate Monday at 11:30 A.M. to the Police Station under which the ordinary place of residence falls, during the period of his release on parole. The Petitioner will not be kept waiting at the station beyond one hour i.e., 12:30 P.M.
- iv. The Petitioner shall maintain peace and good behaviour during his period of release on parole.
- v. The Petitioner shall not communicate with or come in contact with the



complainant/victim or any member of the complainant/victim's family.

- vi. The Petitioner shall positively surrender before the concerned Jail Superintendent on the expiry of the period of 4 weeks from the date of his release.
11. Accordingly, the present writ petition along with pending application (if any) stands disposed of.
12. In view of the aforesaid, the competent authority is directed to not rely on the fact that there was a delay of three (3) days in surrendering by the Petitioner in 2022, while deciding the Petitioner's application for parole and furlough in future, as the same has ceased to be a material fact.
13. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.
14. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA
(JUDGE)

FEBRUARY 24, 2025/MG

Click here to check corrigendum, if any