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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision : 29.01.2025*+ **W.P.(CRL) 242/2025**

SURESH

.....Petitioner

Through: Ms. Anu Narula, Adv.
(DHCLSC)

versus

STATE (NCT DELHI)

.....Respondent

Through: Ms. Rupali Bandhopadhyaya,
ASC(Criminal) with Mr.
Abhijeet Kumar and Mr.
Anurag Arora, Advs with
Inspector Yogendra P.S.
Sultanpur.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J (ORAL)**

1. By way of the present petition filed under Article 226 of the Constitution of India read with Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS'), the petitioner seeks issuance of writ in the nature of certiorari for quashing of order F. 10(003474125)/CJ/LEGAL/PHQ/2024/M-1556 dated 24.12.2024, passed by the Jail Authority, and issuance of writ in the nature of mandamus seeking grant of first spell of furlough for a period of three weeks.

2. The petitioner herein is presently lodged in Central Jail No. 14,



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Mandoli, New Delhi and is serving life sentence awarded to him in case arising out of FIR No. 1196/2007, registered at Police Station Sultanpuri, Delhi, under Sections 302/307/452/34 of Indian Penal Code, 1860 (hereafter '*IPC*').

3. The petitioner faced trial in FIR No. 1196/2007, and was convicted *vide* judgment dated 29.08.2012, and *vide* order on sentence dated 01.09.2012, he was sentenced to undergo life imprisonment by the learned Trial Court. Being aggrieved by the said judgment and order, the petitioner filed Crl. A. No.220/2013 before this Court and the same was dismissed by this Court *vide* judgment dated 21.07.2015.

4. It is submitted by the learned counsel appearing for the petitioner that the petitioner has been in judicial custody for the last 16 years without remission. It is contended that the petitioner was granted exemption from surrender by the Hon'ble Supreme Court; however, the petitioner and several other convicts were directed to surrender by the Hon'ble Supreme Court on 01.10.2024. It is stated that the petitioner had surrendered on 06.10.2024, since he was informed late regarding the same by his counsel representing him before the Hon'ble Supreme Court. Thus, due to a communication gap between the petitioner and his counsel, there was a delay of about 05 days in surrender. It is stated that the said delay was unintentional and the petitioner had immediately surrendered once he was informed about his surrender. It is further stated that the petitioner has faced a long incarceration and needs to combat inner stress and depression arising out of prolonged incarceration.



5. On the other hand, the learned ASC appearing on behalf of the State argues the petitioner has not abided by the law and has drawn the attention of this Court to the furlough granted to the petitioner, wherein the petitioner had surrendered 05 days late. Therefore, he prays that the present petition be dismissed.

6. This Court has heard arguments and perused the material available on record.

7. In the present case the petitioner seeks setting aside of order dated 24.12.2024 passed by the concerned Competent Authority vide which his application for grant of furlough has been rejected. The order reads as under:

I. That he was released on 03 weeks w.e.f. 07.11.2023 to 09.12.2023 and but he was granted stay from surrendering by the Hon'ble Apex Court in W.P.(Crl.) No. 615/2023. Further, the Hon'ble Apex court has dismissed the petition of the convict on 01.10.2024 and directed to surrender but he surrendered late by 05 days on 06.10.2024. A punishment/warning was recorded against him for late surrender.

II. As per Standing Order 01/2019, if the convict happens to commit jail offence (jumped Parole/Furlough) and a punishment of Warning has been recorded against him, he shall be eligible for furlough after a gap of one year from the date of punishment.

III. 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.

8. The petitioner has been in judicial custody for more than 17 years and 04 months without remission, and his overall conduct has been satisfactory and the petitioner has been granted furlough on 15



occasions in the past.

9. This Court also takes note of Rule 1178 of the Delhi Prison Rules, 2018 which clearly lays down that an inmate shall be eligible for Annual Good Conduct Remission, and any warning given to him shall not be taken into account. The same is reproduced below:

“...1178. Any prisoner, eligible for ordinary remission, who for a period of one year from the date of his sentence, or the date on which he was last punished (except by way of warning) for a prison offence, has not committed any prison offence, should be awarded 30 days annual good conduct remission by the Superintendent of the Prison in addition to any other remission. Explanation: - For the purposes of this rule, prison offences punished only with a warning, shall not be taken into account...”

10. The attention of this Court has also been drawn to Rules 1197 and 1200 of the Delhi Prison Rules, 2018. The said rules read as under:

"1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of a prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:

- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self-confidence,
- iii. To enable him to develop constructive hope and active interest in life,



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- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and
- vii. To motivate him to maintain good conduct and discipline in the prison..."

11. It is evident that Rule 1197 and 1200 provide that the provision of furlough and parole are progressive and correctional measures, and lay down the objectives of furlough and parole. This Court has also gone through Rule 1223 of Delhi Prison Rules, 2018 which provides criteria for grant of furlough. The said rule reads as under:

"1223. In order to be eligible to obtain furlough, the prisoner must fulfil the following criteria: -

- i. Good conduct in the prison and should have earned rewards in the last 3 Annual good conduct report and continues to maintain good conduct.
- ii. The prisoner should not be a habitual offender.
- iii. The prisoner should be a citizen of India."

12. This Court notes that the impugned order vide which the application for grant of furlough has been rejected mentions that the petitioner herein had surrendered 05 days late. Considering that his overall conduct otherwise has been satisfactory in the last more than 16 years and he has not misused the liberty so granted, to him, and considering the overall facts and circumstances of the case, this Court is inclined to grant furlough to the present petitioner for a period of three (03) weeks, on the following conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs.10,000/- with one surety of the like amount, to the



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satisfaction of the Jail Superintendent.

- ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM during the period of furlough.
 - iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of local police station, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.
 - iv. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
 - v. The period of furlough shall be counted from the day when the petitioner is released from jail.
 - vi. The petitioner will be released on furlough from the upcoming day when the other co-accused who is granted furlough will surrender before the Jail Superintendent, in accordance with Rule 1224 (v), Note-1 of the Delhi Prison Rules, 2018.
13. In view of the above, the present petition stands disposed of.
14. A copy of this judgment be forwarded to the concerned Jail Superintendent for information and compliance.
15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 29, 2025/A