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

+ **W.P.(CRL) 293/2025**

GULSHAN ALIAS SANDEEP ALIAS MONUPetitioner
Through: **Ms. Tanya Agarwal and Mr. Gaurav Kalra, Advocates**

versus

STATE OF NCT OF DELHIRespondent
Through: **Mr. Sanjay Lao, Standing Counsel for State with SI Vijay Dahiya, PS: Prashant Vihar**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **06.03.2025**

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) impugning the order dated 08.01.2025 passed by the Competent Authority declining the Petitioner's application for grant of 1st spell of furlough of three (3) weeks for the conviction year starting on 13.06.2024.

2. Learned counsel for the Petitioner states that the impugned order dated 08.01.2025 refers to the offence of the Petitioner being re-arrested on 02.03.2022 during emergency parole in another FIR No. 114/2022 registered under Sections 356/379/411 of the Indian Penal Code, 1860 (IPC) at Police Station (P.S.) Dwarka South as the sole ground for declining the 1st spell of furlough of three (3) weeks.



2.1 She states that the Petitioner was issued the punishment ticket dated 09.03.2022 for the said incident by the Competent Authority. She states that however, the said punishment ticket has, since been quashed/set-aside by the Co-ordinate Bench of this Court vide order dated 12.03.2024 in WP(CRL) 2723/2023.

2.2 She states, however, this material fact has not been taken into consideration by the Competent Authority while passing the impugned order dated 08.01.2025.

2.3 She states that Petitioner was last enlarged on parole on 16.05.2021 and was re-arrested on 02.03.2022. She states that since then the Petitioner has remained in incarceration.

3. Learned standing counsel states that it is a matter of record that the punishment ticket dated 09.03.2022 has been set aside by the Co-ordinate Bench, though the same was done on the procedural ground of non-service of prior show-cause notice.

3.1. He states that the plea of the Petitioner for grant of furlough was declined by the Competent Authority in view of the specific observations made by the Coordinate Bench at paragraph '30' of the order dated 12.03.2024. Also at the relevant time, the SLP filed by the Petitioner was pending, which has since been disposed of on 28.11.2024.

3.2. He states that in FIR No. 114/2022, the Petitioner was sentenced to 11 months imprisonment, which he has already undergone.

4. This Court has considered the submissions of the learned counsels for the parties and perused the record.

5. The Competent Authority in the impugned order while declining the relief sought by the Petitioner for grant of 1st spell of furlough of three (3)



weeks has only placed reliance on the punishment ticket dated 09.03.2022, which has been set-aside by a Co-ordinate bench vide order dated 12.03.2024. No fresh punishment ticket has been issued and the Petitioner has already undergone the sentence awarded with respect to the offence under FIR No. 114/2022.

6. In view of the aforesaid facts, this Court is satisfied that Petitioner is entitled to grant 1st spell of furlough for three (3) weeks for the conviction year which started on 13.06.2024 from the date of release subject to furnishing a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the Jail Superintendent subject to the following conditions: -

- i. During the period the Petitioner remains out on furlough, the Petitioner shall report to the SHO, PS Prashant Vihar, every Monday at 11:00 A.M., and will not be kept waiting for more than an hour.
- ii. The Petitioner shall also provide the SHO, PS Prashant Vihar, with mobile telephone number, which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the SHO concerned.
- iii. The Petitioner shall not leave the National Capital Territory of Delhi during the period of furlough, without the prior permission of this Court.
- iv. The Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the complainant/victim or any member of the complainant/victim's family.



- v. The Petitioner is directed to surrender before the jail authorities at the expiry of the period of furlough.
7. The punishment ticket dated 09.03.2022 has been set aside and there has been no fresh adjudication thereafter by the competent authority for the said offence in FIR No. 114/2022 in terms of the directions issued vide order dated 12.03.2024. In the absence of an adjudication as required under the Delhi Prison Rules, 2018 ('DPR') the registration of the FIR cannot simpliciter form the basis for denying the furlough/parole to the Petitioner, as it would be in violation of the principles of natural justice enshrined in the DPR. The competent authority shall bear in mind this observation while deciding the application for parole and/or furlough of this Petitioner.
8. Accordingly, the petition is disposed of. Pending applications (if any) are also disposed of as being rendered infructuous.
9. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
10. 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, J

MARCH 6, 2025/rhc/sk