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

+ **W.P.(CRL) 363/2025**

JAGBANDHU DASS @ TINKU @ TUKKU

.....Petitioner

Through: Ms. Sunita Arora, Advocate
(DHSLSC).

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC, Crl.,
Mr. Alok Sharma, Mr. Amit Sahni &
Mr. Vasu Agarwal, Advocates for
State.
S.I. Mohd Intzar, PS Sunlight Colony,
Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

03.02.2025

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1. 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 08.01.2025 *vide* which the Furlough Application of the Petitioner has been rejected on the ground that the Petitioner surrendered himself with a delay of 10 days.
2. It is submitted that the Petitioner was released on Furlough for three weeks w.e.f. 09.10.2023 to 30.10.2023. The Petitioner preferred W.P. (C) 3131/2023, wherein this Court *vide* Order dated 20.10.2023 granted a stay to the Petitioner from surrender, which was extended time to time. However, on 24.01.2024, the said Petition was disposed of with the direction to the



Sentence Review Board (SRB) to reconsider the case of the Petitioner and the Petitioner was granted one week more time to surrender.

3. Aggrieved by the said Order dated 20.10.2023, the Petitioner preferred an SLP (CRL) No. 1985-1987/2024, where the stay was extended by the Apex Court. However, the Apex Court *vide* Order dated 01.10.2024 vacated the stay by observing that “*when the interim order dated 2nd February, 2024 was passed by this court in these petitions, it was not pointed out that the Petitioner had no protection. Hence, the interim orders are vacated. The case of the petitioners shall be considered only after all of them surrender*” and directed the Petitioner to surrender immediately, but the Petitioner surrendered on 11.10.2024 i.e., with a delay of 10 days.

4. It is asserted that though the Petitioner was being represented through his counsel before the Apex Court on 01.10.2024, the Petitioner was not aware of the said Order, nor was he informed about it by his counsel. The Petitioner tried to contact his counsel, but of no use.

5. It is further asserted that the Petitioner is a poor and illiterate person, after much efforts, he could only get the knowledge of the Order on 11.10.2024 from his fellow inmates. On the same day, he immediately surrendered before the concerned Jail Superintendent on 11.10.2024.

6. Reliance has been placed on the decision in Ved Prakash vs. State of NCT decided on 04.07.2024 by the Co-ordinate Bench of this Court in W.P.(CRL) 1815/2024, wherein the similar Order denying the Furlough was challenged, observed that the Petitioner voluntarily surrendered to custody after expiration of the previous Furlough though with 4 days’ delay. There was nothing on record to suggest, nor had it been contended that the Petitioner remained at large or that he had to be arrested and brought back to



prison. Accordingly, after considering the facts and circumstances of the case, the Order dated 12.02.2024 denying the Petitioner Furlough, was set aside.

7. It is claimed that the delay of 10 days in surrender was not intentional but it was caused because of the reasons stated therein. The impugned Order dated 08.01.2025 denying the Furlough to the Petitioner, may thus, be quashed.

8. ***Issue notice.***

9. Mr. Yasir Rauf Ansari, learned Additional Standing Counsel appearing on advance Notice, accepts Notice on behalf of the State and submits he has no objection if the present Petition is allowed.

10. **Submissions heard and record perused.**

11. 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 duly represented by his private counsel before the Apex Court, but the Petitioner was not aware of the vacation of the stay by the Apex Court on 01.10.2024 nor he was informed about it by his counsel. When he tried to contact his counsel, it was of no avail. The Petitioner on getting to know about that the vacation of stay by his fellow inmates on 11.10.2024, immediately surrendered himself before the concerned Jail Superintendent.

12. The delay of 10 days in surrender cannot be held to be motivated and contumacious so as to deny him the right of Furlough in future, but was for the reasons stated herein above.

13. Also, the Petitioner is presently working as “*Safai Sahayak*” inside the Jail Factory, Central Jail No. 14, Mandoli, Delhi and maintaining overall good conduct and he has three consecutive Annual Good Conduct Reports



(AGCR), preceding his Application.

14. Considering the above discussion and also no objection on behalf of the State, the impugned Order dated 08.01.2025 rejecting the Furlough Application of the Petitioner, is hereby quashed and set aside.

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

16. Accordingly, the Petition is disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 3, 2025

S.Sharma