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

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Judgment delivered on: 20.03.2025+ **W.P.(CRL) 447/2025**

SALEEM

.....Petitioner

Through: Mr. Harshit Jain, Mr. Rahul
Kumar and Mr. Shubham
Singh, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Anand V. Khatri, ASC for
the State with SI Sangeeta,
P.S. Shahbad Dairy.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner, by way of the present writ petition, seeks issuance of writ in the nature of *certiorari* for quashing of order Ref. F.10(003470051)/CJ/Legal/PHQ/2024/7560 dated 30.10.2024, passed by the Office of Director General of Prisons, Prison Headquarters, Tihar, and issuance of writ in the nature of *mandamus* seeking grant of first spell of furlough for a period of 21 days.

2. As evident from records, the petitioner herein is presently lodged in Central Jail No. 14, Tihar, New Delhi, and is serving life sentence awarded to him in case arising out of FIR No. 163/2012, registered at Police Station Shahabad Dairy, Delhi, for offence under



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Sections 376(2)(g) of the Indian Penal Code, 1860 [hereafter '*IPC*'].

3. After conclusion of trial, the petitioner was convicted *vide* judgment dated 25.08.2015, and by way of order on sentence dated 25.08.2015, he was sentenced to undergo life imprisonment by the learned Trial Court. Being aggrieved by the said judgment and order, the petitioner had filed *CRL.A.1190/2015* before this Court, but the same was dismissed *vide* judgment dated 16.07.2018.

4. The learned counsel appearing for the petitioner submits that the petitioner has been in judicial custody for the last 12 years. He submits that the petitioner was released on parole w.e.f. 13.04.2020 by the Government of NCT of Delhi, and thereafter, was granted exemption from surrendering by the Hon'ble Supreme Court; however, the petitioner and several other convicts were directed to surrender by the Hon'ble Supreme Court on 02.03.2021. It is stated that the petitioner inadvertently failed to surrender on time due to Covid-19 pandemic and he was rearrested on 06.09.2021 in the same case. It is further stated that the petitioner was last granted parole by this Court for a period of four weeks w.e.f 24.12.2024 to 20.01.2025, and the petitioner had surrendered on 20.01.2025. It is further stated that the petitioner has faced long incarceration and needs to combat inner stress and depression arising out of prolonged incarceration. Therefore, the learned counsel for the petitioner prays that the present petition be allowed.

5. On the other hand, the learned ASC appearing on behalf of the State argues the petitioner had not earlier surrendered on the expiry



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of the period of parole, and he was rearrested after six months. The learned ASC for the State also draws the attention of this Court to the parole granted to the petitioner, wherein the petitioner had surrendered one day late. Therefore, he prays that the present petition be dismissed.

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

7. In the present case the petitioner seeks setting aside of the order dated 30.10.2024 passed by the concerned Competent Authority *vide* which his application for grant of furlough has been rejected. The relevant portion of the said order is set out below:

“4. He is not eligible as per para 1224(iii) of Delhi Prison Rules-2018 "the prisoner who abscond while released On parole or furlough shall not be eligible to be released on furlough". The above said convict jumped parole and re-arrested in same case after six months on 06.09.2021.

5. He is involved in rape of 9 year girl.

6. His application was not recommended by Superintendent Jail in view of his jump of emergency parole...”

8. It is not disputed that the petitioner, after being released on emergency parole during Covid-19 pandemic, had not surrendered on time i.e. on 02.03.2021 (date of surrender), and was later rearrested on 06.09.2021 i.e. after about six months. However, more than three years have gone by since then, and this Court’s attention was also drawn to the order dated 27.09.2024 passed by the Coordinate Bench in *W.P.(CRL) 2993/2024* whereby the petitioner was granted parole for a period of 04 weeks. As per nominal roll, the petitioner had



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surrendered upon the expiry of said period, though late by only a day, and a warning was issued to him. However, as per Rule 1178 of the Delhi Prison Rules, 2018, an inmate shall be eligible for Annual Good Conduct Remission, and any 'warning' given to him shall not be taken into account. Moreover, by way of an order dated 07.06.2019, the Standing Order No. 01/2019 was modified to the extent that in case a warning is issued to a convict, the shall not come in way of granting furlough to a convict.

9. It is clear from records that except the fact that a warning was issued to the petitioner for surrendering one day late in January, 2025, no misconduct has been reported against the petitioner in the last three years. The petitioner has been in jail for more than 11 years and 3 months, excluding the period of remission of more than 2 years, and has been working as a *langar sahayak*.

10. The attention of this Court has also been drawn to Rules 1197 and 1200 of the Delhi Prison Rules, which 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,



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- iii. To enable him to develop constructive hope and active interest in life,
- 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 Rules 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.

12. The address where the petitioner intends to reside has been verified by the State, and the verification report mentions that the petitioner had resided at the said address with his son-in-law when he was previously released by the jail authorities. Therefore, considering the aforesaid, and the period of incarceration of the petitioner, 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 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



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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.

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.

DR. SWARANA KANTA SHARMA, J

MARCH 20, 2025/A