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

+ **W.P.(CRL) 618/2025**

VIJAY PAL

.....Petitioner

Through: **Mr. Archit Upadhayay, Adv
(DHCLSC)**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Ms. Rupali Bandhopadhyay, ASC
(Criminal) with Mr. Abhijeet Kumar
& Mr. Anurag Arora, Advocates.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

24.02.2025

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1. The instant petition under Article 226 of the Constitution of India read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the petitioner seeking the following reliefs:

a. Issue a writ of certiorari thereby setting aside the order no. F. 1 0(34 73065)/CJ/LEGAL/PHQ/2024/M- 1 579 Dated 24.12.2024 passed by the DG, Prisons whereby declining the furlough application of the petitioner.

b. Issue a writ in the nature of Mandamus directing the respondent to release the petitioner on 1st Spell of furlough for a period of 3 Weeks for the present conviction year in FIR No. 660/2007, PS Ashok Vihar.

2. Issue Notice

3. Ms. Rupali Bandhopadhyay, learned ASC accepts notice on behalf of



the State.

4. The learned counsel appearing on behalf of the petitioner states that the petitioner herein was convicted in case bearing FIR No. 660/2007, for the offences punishable under Sections 302/449/506/34 of the Indian Penal Code, 1860 registered at Police Station New Ashok Nagar, Delhi. It is further stated that the petitioner herein, is a law-abiding citizen and has been in judicial custody for last 16 years. It has been pointed out that the petitioner has been granted furlough on 09 occasions in the past.

5. Conversely, 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 period of 03 weeks furlough granted to the petitioner from 16.10.2023 to 06.11.2023 wherein, the petitioner had surrendered 09 days late. It has also pointed out that the petitioner was awarded punishment in the year 2017, when the one week '*Mulakat*' of the petitioner was stopped. Therefore, he prays that the present petition be dismissed.

6. This Court has heard arguments addressed on behalf of both parties and have perused the material available on record.

7. The petitioner had applied for furlough, but the same was rejected *vide* Order No. F.10(003473065)/CJ/LEGAL/PHQ/2024/M-1579, passed by the competent authority, the relevant portion of which reads as under:

- i. That he was released on 03 weeks furlough w.e.f 16.10.2023 to 06.11.2023 and but he was granted stay from surrendering by the Hon'ble Apex Court. 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 09 days on 10.10.2024. 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. This Court has also gone through the nominal roll, which has been placed on record.

9. The nominal roll reveals that the petitioner herein has been in judicial custody for more than 16 years and he has been released on furlough on 09 occasions. The overall conduct of the petitioner herein has been mentioned as unsatisfactory. However, this Court notes that the last punishment awarded to him was in the year 2017, when one week '*Mulakat*' was stopped and was later approved by the learned District and Sessions Court Judge concerned.

10. This Court's attention has also been drawn to Rules no. 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 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.
- 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.
- 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 measures of correctional services, 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 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 in the last 05 years there have been no other episodes of any punishment awarded to him. Thus, 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 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.

13. The application stands disposed of.
14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 24, 2025/vc

Click here to check corrigendum, if any