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

+ **W.P.(CRL) 1363/2025**

MOHD MUSTAQ

.....Petitioner

Through: Mr. Aman Panwar (DHCLSC),
Mr. Abhinav Kumar, Mr. Piyush
Wadhwa and Ms. Rishika Choudhary,
Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, SC for State with
Mr. Nitin, SI, PS-Jamia Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

08.08.2025

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1. The present petition filed under Article 226 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 assails order dated 19th February, 2025 passed by the Office of Director General of Prisons, Prison Headquarters, Tihar rejecting Petitioner's request for grant of furlough.

2. The Petitioner is a convict serving life sentence in FIR No. 450/2013 under Sections 302/34 of Indian Penal Code, 1860¹ registered at P.S. Jamia Nagar, Delhi. As per the latest Nominal Roll, as on 4th July, 2025, the Petitioner has been in actual custody for 8 years, 5 months and 20 days and also earned remission of 2 years, 2 months and 13 days. His jail conduct for

¹ "IPC"



last one year is satisfactory, however, the overall conduct is unsatisfactory. The adverse entry arises from the fact that the Petitioner did not surrender when he was released on emergency parole w.e.f. 15th May, 2021 to 7th April, 2023. The Petitioner did not return voluntarily and was eventually re-arrested by the Crime Branch, Delhi Police on 10th April, 2024, almost a year after the due date. On this ground, his request for furlough was declined by the impugned order.

3. Counsel for the Petitioner emphasises the delay in surrendering was unintentional and attributed to lack of proper intimation regarding the date of surrender. The lack of intimation is disputed by Mr. Sanjay Lao, Standing Counsel for the State, who states that failure to surrender was intentional and deliberate.

4. The Court has heard the counsel for the parties. Indeed, there has been a default on the part of the Petitioner in not surrendering when he was released on emergency parole. Moreover, there is substantial lapse of time and also a concerning fact that he did not surrender but had to be re-arrested. Nonetheless, it is relevant to note that the emergency parole was granted during the peak of the COVID-19 pandemic. This was a period of uncertainty and it is plausible that proper intimation was not received by the Petitioner. This Court in similar cases has adopted a lenient approach to consider the circumstances that were primarily owing to COVID-19 pandemic. It must also be noted that on prior occasions, the Petitioner had surrendered on time when released on parole or furlough.

5. Additionally, it must be noted that the Supreme Court in *Asfaq v.*



State of Rajasthan,² elaborated on the objective of furlough and observed as under:

*“19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual **offenders** and may have the tendency to commit the crime again after their release on parole or have the tendency to become a threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.*

20. Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behavior shows that they aspire to live as law-abiding citizens. Thus, parole programme should be used as a tool to shape such adjustments.”

(Sic)

6. Further, in similar circumstances, Co-ordinate Bench of this Court in ***Mohd. Suleman v. State of NCT of Delhi***,³ held that where there was a delay in surrender by the petitioner after being released on emergency parole, a sympathetic view could be taken.

7. Having regard to the afore-noted and bearing in mind that personal liberty is a valuable fundamental right which ought to be restricted only when warranted by the specific facts of a case, this Court is of the considered view that the Petitioner, who has already undergone over 8 years

² (2017) 15 SCC 55

³ 2023:DHC:3679



of incarceration, deserves to be granted furlough.

8. Accordingly, the Petitioner is directed to be released on furlough for a period of 3 weeks on following conditions:

(i) The Petitioner shall furnish personal bond in the sum of INR 25,000/- with two sureties in the like amount to the satisfaction of the Jail Superintendent.

(ii) The Petitioner shall provide his mobile phone number to the concerned Jail Superintendent and SHO concerned at the time of release, which shall be kept in working condition at all times;

(iii) The Petitioner shall not leave the NCT of Delhi without the prior permission of this Court and shall reside at the address as per prison records;

(iv) The Petitioner shall present himself before the S.H.O., P.S. Jama Masjid once a week to mark his presence. However, he will not be kept waiting longer than an hour for this purpose.

(v) The Petitioner shall positively surrender before the concerned Jail Superintendent on the expiry of the period of three weeks from the date of his release.

9. With the above directions, the present petition, along with pending application, is disposed of.

10. A copy of this order be sent to the concerned Jail Superintendent and SHO, P.S. Jamia Nagar.

SANJEEV NARULA, J

AUGUST 8, 2025

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