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

+ **W.P.(CRL) 3354/2023**

MUKESH @ KARKA

.....Petitioner

Through: **Mr. Ayush Khanna, Advocate**

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: **Mr. Amol Sinha, ASC (Crl.) with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Ms. Sanskriti Nimbekar.
Mr. Pankaj Saroha, Insp., PS-Pandav Nagar.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.01.2025

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1. The Petitioner has been convicted in FIR No. 131/2010 under Section 397, 302, 34 of the Indian Penal Code, 1860¹, registered at P.S. Pandav Nagar and has been sentenced to life imprisonment. The Petitioner was released on emergency parole on 14th May, 2021, *vide* an order passed on the same day by the Home Department, Government of NCT of Delhi, for a period of 90 days. While the Petitioner was on parole, he was arrested again, this time in relation to FIR No. 90/2023 under Section 392 and 34 of IPC, registered at P.S. Pandav Nagar.

2. Thereafter, upon his re-arrest, the jail authorities issued a punishment ticket dated 2nd April, 2023, to the Petitioner for flouting the conditions of



release in terms of the emergency parole granted to him. The punishment awarded to him is of stopping Vodafone, Canteen and Mulakaat facility for 15 days. The said punishment has also been approved by the Principal District and Sessions Judge *vide* letter dated 02nd June, 2023.

3. Through the instant writ petition, the Petitioner assails the said the punishment ticket dated 2nd April, 2023, on the ground that the punishment awarded to him is a major punishment as per Rule 1271 (II) of the Delhi Prison Rules, 2018² and as such, the Petitioner ought to have been given a show cause notice, which is a mandatory pre-requisite for awarding major punishment as per Rule 1272 of DPR, 2018.

4. As per the procedure established in the DPR, 2018 for awarding punishment, the Petitioner was required to respond to a formal charge of violation of the Jail rules. Thereafter, the Superintendent was to hold an inquiry into the matter and the statement of all concerned witnesses are to be recorded. In essence, the Petitioner is required to be given a fair hearing before a jail punishment is awarded to him.

5. In light of the foregoing, without going into the merits of the case, since concededly a show cause notice was not issued by the Respondents in the present case, the Court considers it appropriate to pass the following directions:

- i) The impugned punishment ticket dated 2nd April, 2023, awarded to the Petitioner by the Respondent in FIR No. 131/2010 under Section 397, 302, 34 of IPC, registered at P.S. Pandav Nagar is hereby quashed.
- ii) The Respondent shall issue a fresh show cause notice as

¹ “IPC”

² “DPR, 2018”



provided under DPR, 2018, within a period of two weeks from today and thereafter passed appropriate orders, after following the due procedure as provided under the prison rules.

iii) It is clarified that the Court has not commented on the merits of the case or the facts which resulted in the impugned punishment ticket being issued. All rights and contentions of the parties are left open. The impugned ticket has been cancelled purely on account of a technical ground of not issuance of a prior show cause notice.

6. Accordingly, the writ petition is disposed of.

SANJEEV NARULA, J

JANUARY 9, 2025

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