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

+ **W.P.(CRL) 3470/2023**

MOHD SHEIKH NOOR HUSSAIN

.....Petitioner

Through: Mr. Shannu Baghel, Mr. Sudhir
Kumar, Mr. Ganpat Ram and
Mr. Vivek Kumar, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC with
Mr. Alok Sharma, Ms. Jyotsna Pandit
and Mr. Mohit Raj Nagar, Advocates
for State with Ms. Vineesha, SI, PS-
Sarojini Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.03.2025

1. The present petition under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of punishment ticket No. 515 dated 7th July, 2022 issued by jail authorities and the subsequent confirmation/ approval granted by the Principal District and Sessions Judge by order dated 17th October, 2022. The aforementioned punishment ticket is impeding the Petitioner from seeking grant of furlough/ parole as well as being considered for premature release by the Sentence Review Board². Aggrieved, the Petitioner has filed the instant petition seeking intervention of this Court.

¹ "CrPC"

² "SRB"



2. The Petitioner is confined in Central Jail No. 14, Mandoli Delhi. He was convicted under Sections 302/376(2) of the Indian Penal Code, 1860,³ in a case arising out of FIR No. 252/02, registered at P.S. Sarojini Nagar, and is presently serving a life sentence.

3. The Petitioner was released on emergency parole for a period of 8 weeks on 10th April, 2020 pursuant to order No. 1489 dated 9th April, 2020 issued by the GNCTD. This emergency parole was further extended from time to time, with the final date of surrender fixed as 27th February, 2021. Accordingly, the State tried to establish contact with the Petitioner through phone calls on the numbers given by the Petitioner in the emergency parole register, however, he was not reachable. Subsequently, several wireless messages were also flashed by the jail authorities regarding re-arrest of the Petitioner. However, the Petitioner surrendered on 7th July, 2022, after a delay of 1 year, 4 months and 10 days.

4. Pursuant to the aforesaid delay, the impugned punishment ticket dated 7th July, 2022 was awarded to the Petitioner, which reads as follows:

**“PUNISHMENT TICKET
CENTRAL JAIL NO. 14, MANDOLI
CONVICT HISTORY TICKET**

*P no. 515
Date: 07.07.2022*

*Convict: MOHD. SHEIKH NOOR HUSSAIN S/O SHEIKH
RUBY*

*On 07.07.022, it has been reported that convict **MOHD. SHEIKH NOOR HUSSAIN S/O SHEIKH RUBY** was granted emergency Parole for a period of 08 weeks by GNCTD vide order 1489 dated 09.04.2020. The convict was released on 10.04.2020 and the same was extended from time to time due to the pandemic situation of COVID-19. He was scheduled to sunender in this jail on 27.02.2021 but he himself surrender before SCJ-14 on 07.07.2022 i.e 1 year 4 months and 10 days Late.*

³ “IPC”



Hence, in view of above, the convict **MOHD. SHEIKH NOOR HUSSAIN S/O Sh. SHEIKH RUBY** has violated terms & conditions mentioned in the Interim Bail order and the jail rules and he may be punished as provisions of Delhi Jail Manual 2018.

Sd/-
07.07.2022
AS

S/d-
15.07.2022
DS

SCJ-14

Heard, the said convict and he explained the reason for the late surrender (application attached). In this regard punishment awarded to convict, stoppage of interview for a period of one month & 28 days earned remission forfeited and also stop of his inmate calling system for a period of one month, subject to the appraisal of Ld Distt. & session judge"

sd/-
04/08/2022"

5. Thereafter, the judicial appraisal order dated 17th October, 2022 was passed by the by the Principal District and Sessions Judge:

"Sub Regarding judicial appraisal of the punishments.

Ref. Letter No.25450-I/ Genl.II/2022 dated 13.10.2022 in reference to letter no. F.14/SCJ-14(M)/AS(CT)/2022/2170 dated 05.08.2022 from the Dy. Supt. CJ-14, MANDOLI, Delhi.

Judicial appraisal of punishment has been done in accordance with section 46 of the Delhi Prisons Act 2000 and rule 4 7 of Delhi Prisons Rules 1988.

1. Punishment at ref no. 515 OF COVICT MOHD. SHEIKH NOOR Hussain S/o Mohd, Sheikh Ruby stopping of interview for a period of one month, stoppage of inmate calling system for a period of one month and 28 days earned remission forfeiture is on higher side was recommended, hence the stoppage of interview for two weeks, inmate calling system for two weeks and 14 days earned remission forfeiture may be approved

Submitted please for approval.



Sd/- (ALOK SHUKLA)
A.S.J Delhi /17.10.2022
Hon'ble Principal District & sessions Judge (HQ) Delhi"

6. The Petitioner submits that he was under the *bona fide* belief that he was not required to surrender before the jail authorities, as the date of surrender was not communicated to him by the competent authorities. He states that he hails from the weaker strata of the society, with no access to modern technological means or internet services. Due to this lack of communication, the Petitioner remained unaware of the scheduled date for his surrender. However, upon being made aware of the same, he voluntarily surrendered before the jail authorities on 7th July, 2022.

7. Additionally, the Petitioner challenges both the punishment ticket and the appraisal order on the ground that these were issued without the prior issuance of a show cause notice to the Petitioner, thereby contravening the provisions of the Delhi Prison Rules, 1988.⁴ He claims that the punishments awarded to the Petitioner qualify as 'major punishments' under Rule 1271 of the DP Rules and that he was entitled to a show cause notice and an opportunity to be heard before the imposition of such penalties, in accordance with Rule 1272.

8. Notwithstanding the above, the Petitioner submits that he has already undergone the punishment imposed upon him. However, he contends that the continued existence of the punishment ticket will hinder his right to apply for parole, furlough, or premature release before the SRB. This, he contends, is in violation of Rule 1275 of the DP Rules, which provides, "*No prisoner should be punished twice for the same offence by the same*

⁴ "DP Rules"



authority.” Therefore, the Petitioner’s limited grievance is that the punishment ticket should not serve as an impediment to the grant of parole or furlough, nor should it affect the consideration of his premature release by the SRB.

9. The Court has duly considered the submissions of the Petitioner. Evidently, there has been a delay on the part of the Petitioner in surrendering, however, the Court cannot overlook the fact that this delay occurred during the peak of the COVID-19 pandemic, when the Petitioner, like other convicts, was granted emergency parole. The State apparently made efforts to contact the Petitioner *via* calls and messages without success. The Petitioner has explained that due to lack of access to internet services, he did not receive the notification regarding his surrender. In light of this, it is plausible that the Petitioner was indeed unaware of his surrender date. Notwithstanding this, the record indicates that the Petitioner voluntarily surrendered before the jail authorities on 7th July 2022, demonstrating his compliance with the law.

10. As regards the Petitioner’s objections related to non-compliance with the DP Rules, it is crucial to note that the Petitioner was subjected to the following punishments: stoppage of interview for two weeks, forfeiture of 14 days’ earned remission, and stoppage of the inmate calling system for two weeks. These sanctions are classified as major punishments under Rule 1271 of the DP Rules. In this context, Rules 1272 and 1273 outline the procedure for imposing punishments, wherein Rule 1272 states that a written notice should be given to a prisoner for award of major punishment, calling him to show cause with reference to the alleged violation of the Jail rules.

11. A perusal of the punishment ticket reveals that the Petitioner was not



served with a show cause, thereby depriving him of the opportunity to present his defence. Additionally, the status report filed in this case does not address whether the procedure for issuing the punishment ticket was followed, nor does it confirm whether a show cause notice was issued before the major punishment was imposed. In this regard, it is imperative to refer to the judgement of this Court in **Vipin Sharma v. State (NCT of Delhi)**,⁵ whereby the Court quashed the impugned punishment ticket issued to the convict, for failure to comply with the procedural requirements of the DP Rules. This Court held as follows:

“6. I am of the considered view that the stoppage of Mulakat is a major punishment. Once a procedure for awarding the punishment has been prescribed in the Delhi Prison Rules, the same shall be complied with in its true letter, spirit and intent. Rule 1272 mandates that before awarding the punishment, the prisoner should be given: (i) Written notice, (ii) Calling him to show cause with reference to alleged violation of the jail rules and (iii) The order of punishment to be communicated to concerned prisoner.

xx...xx....xx....

8. Showing of punishment ticket by no stretch of imagination can be said to be compliance of Rule 1272. The showing of punishment ticket is not akin to giving a show-cause notice. The show-cause notice requires that the prisoner/inmate should be put to notice and he must be informed in writing that he is required to respond to the charges levelled against him as well as the basis for those charges and the punishment which can be given to him in case his response is found unsatisfactory. The punishment ticket produced hereinabove has already found the petitioners guilty of violation of Prison Jail Rules. Only the punishment remained to be ascertained which has been done subsequently through the handwritten note. The punishment ticket, hence, is not a show-cause notice and the same falls foul of Rule 1272.”

12. Further, this Court, in **Chander Kant Jha v. State (NCT of Delhi)**,⁶ clarified the mandate of issuance of show cause notice to prisoners, to the following effect:

“9. A bare perusal of Rule 1272 shows that the procedure prescribed

⁵ 2022 SCC OnLine Del 4928

⁶ 2024 SCC OnLine Del 1368



*mandates a written notice to the prisoner calling upon him to show-cause with reference to the alleged violation of the Jail Rules and for communication of the order of punishment. Rule 1273 mandates the Superintendent to hold an enquiry touching every prison offence committed or alleged to have been committed by a prisoner and the enquiry has to be conducted in a quasi-judicial manner recording statements of concerned witnesses and giving full opportunity to the offender for his defence. Findings and punishments have to be recorded in a manner provided under law, after applying judicial mind. Superintendent is required to record the findings and punishment in his own hand in the prisoner's history ticket. **No doubt that the word used in Rule 1272 is 'should' as opposed to the word 'shall' in Rule 1273, however, this Court in Chandrakant Jha (supra); Dalip Singh v. State (GNCT of Delhi), W.P.(CRL) 1849/2021, decided on 18.02.2022; Praveen Rana v. State (GNCT of Delhi), W.P.(CRL) 242/2022, decided on 29.03.2022 and Vipin Sharma v. State (GNCT of Delhi), W.P.(CRL) 44/2021, decided on 18.08.2022, has repeatedly held that Rule 1272 mandates issuance of show-cause notice to the inmate and the Rule must be complied in its true letter, spirit and intent** and wherever the procedure was not followed, matters were remanded back to the Respondent authorities to issue a show-cause notice and hold an enquiry as envisaged in the Rules, 2018, afresh."*

13. The Court, in the aforesaid case, observed that that non-compliance with the DP Rules while awarding punishment to prisoners warrants quashing of the punishment ticket, and remanding of the matter to the concerned authorities for fresh consideration. However, in the instant case, the Petitioner has already undergone the punishment awarded to him, and his limited grievance before the Court is to have the punishment ticket set aside so that it does not hinder him in seeking furlough/parole or premature release before the SRB.

14. Further, it must be noted that as per the nominal roll placed on record, as on 9th September, 2024, the Petitioner had been in custody for 19 years, 10 months and 18 days. Therefore, as on date, he has been in custody for 20 years, 5 months and 2 days. Further, he has earned a remission of 4 years, 9 months and 16 days. His overall jail conduct for the last one year has been



satisfactory.

15. In light of the foregoing facts and circumstances, the present petition is disposed of with the following directions:

- i. The punishment ticket No. 515 dated 7th July, 2022 as well the appraisal order dated 17th October, 2022 are hereby quashed.
- ii. The aforementioned punishment ticket shall not hinder the Petitioner's right of seeking premature release in accordance with the applicable guidelines, by making a request before the SRB as per the DP Rules.
- iii. Prayer B is declined. As for prayer C, as noted above, as and when the Petitioner applies for premature release before the SRB, his request shall be considered on its own merits and the impugned punishment ticket will not prejudice such a request.

16. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

MARCH 24, 2025

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