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

+ **W.P.(CRL) 2429/2024**

RAJ KUMAR

.....Petitioner

Through: Mr. Satyam Thareja, Advocate
(DHCLSC)

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC (Crl.) for
the State along with ASI Om Prakash,
PS: Sarai Rohilla

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

22.01.2025

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1. This a petition filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) seeking quashing of the order 24.07.2024 ('impugned order') passed by the Respondent, whereby the Petitioner's request for 2nd spell of furlough for a period of two (2) weeks has been declined.
2. The impugned order records that the Petitioner was released on furlough for three weeks on 15.03.2024 to 07.04.2024, however, the Petitioner surrendered after the delay of one (1) day on 08.04.2024 and a warning was issued for the late surrender, which is a minor penalty and its efficacy will remain during the current conviction year. It is stated that for this reason alone the application for second furlough has been declined.
3. Learned counsel for the Petitioner states that the delay in surrender by

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the Petitioner was on account of ill health of Petitioner's son. He states Petitioner in this regard had also written an apology letter as well to the Jail Superintendent.

3.1. He states that the Petitioner undertake to abide by the terms and conditions as imposed by this Court, while granting the 2nd Spell of Furlough of two (2) weeks to him and the petitioner shall definitely surrender before the Jail Authority on the expiry of the period of 2nd Spell of Furlough.

3.2. He states that the Respondent has mechanically rejected the furlough application of the Petitioner without even appreciating that the petitioner has been maintaining good conduct and performing his duties as assigned by the jail authorities. Therefore, he prays that the petitioner is entitled to be released on 2nd spell of furlough.

4. Learned ASC for the State has placed on record the Status Report. He states that the permanent residence of the Petitioner has since been verified as stated in para 3 of the status report. He confirms that the new conviction year has commenced and in this new conviction year Petitioner is entitled to furlough.

5. This Court has considered the submissions of the parties.

6. In the present case the Petitioner was given life imprisonment for offence under Section 302 of the Indian Penal Code ('IPC') in FIR 496/2014. The Nominal Roll issued on 06.08.2024 records that the conduct of the Petitioner has been satisfactory and the Petitioner has also undergone incarceration of more than 11 years 4 months, including remissions; and this period would have only increased in the last few months.

7. The Petitioner was due to surrender on 07.04.2024, however, he has



offered a reasonable explanation for the delay in surrender of one day due to ill health of his son. Pertinently, the Petitioner was not re-arrested but had himself surrendered, therefore, the delay of one (1) day is not unreasonable in these peculiar facts. The Petitioner was also granted furlough twice in the year 2023 and he is duly surrendered in time.

8. The new conviction year has commenced and even otherwise the Petitioner is entitled to grant of furlough unaffected by the warning issued to him for the late surrender on 08.04.2024.

9. Keeping in view the purpose of the furlough is to maintain family and social ties and the fact that Petitioner last visited his family in April, 2024, this Court is satisfied that the Petitioner is entitled to grant of 1st spell of furlough for a period of three weeks in the new conviction year, subject to 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 concerned.
- ii. During the period the Petitioner remains out on furlough, the petitioner shall report to the SHO, PS Chawni, Distt Basti, Uttar Pradesh every alternate Sunday between 10:00 AM to 11:00 AM, and will not be kept waiting for more than an hour.
- iii. The Petitioner shall also provide the SHO, PS Chawni, Distt Basti, Uttar Pradesh with mobile telephone number, which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the SHO concerned.
- iv. The Petitioner shall not leave the country during the period of



furlough, without the prior permission of this Court.

v. The Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any member of the complainant/victim's family.

vi. The Petitioner is directed to surrender before the jail authorities at the expiry of the period of furlough.

10. Accordingly, the petition is disposed of in the aforesaid terms. Pending applications (if any) are also disposed of as being rendered infructuous.

11. It is further directed that while considering subsequent applications of the Petitioner for seeking furlough, the competent authority will take into consideration the observation made by this Court in this order with respect to the delay of surrender on 08.04.2024 and not decline relief on this ground.

12. Copy of the order be sent to the Jail Superintendent concerned for information and necessary compliance.

13. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JANUARY 22, 2025/msh/mt/ms

Click here to check corrigendum, if any