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

+ **W.P.(CRL) 2733/2025 & CRL.M.A. 25751/2025**

JANAK

.....Petitioner

Through: Mr. Sanjeev Kumar Baliyan
(DHCLSC), Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel for
the State along with SI Pinki, PS
Kanjhawala.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

29.08.2025

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1. The present petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 482 of the Code of Criminal Procedure, 1973²) assails the order dated 05th May, 2025 passed by the Office of the Director General of Prisons, Prison Headquarters, Tihar, New Delhi. Additionally, the Petitioner also seeks a direction for release on furlough for a period of three weeks.

2. The Petitioner is a convict undergoing life imprisonment in FIR No. 176/2012 under Section 376(2)(F) of the Indian Penal Code, 1860³ registered at P.S. Kanjhawala. The impugned order dated 05th May, 2025, reads as follows:

¹ "BNSS"

² "Cr.P.C"



“This Is in reference to the application for grant of 1st spell of furlough to convict Janak s/o Netranand.

In this regard, I am directed to inform you that the Competent Authority has considered the application or grant of furlough and same has been declined as the stage for the following reasons(s):-

- 1. That as per Para 1223(i) of Delhi Prison Rules 2018 which states that “the prisoner must have a good conduct in prison and should have earned reward in last 03 Annual Good Conduct Report and continue to maintain good conduct”, in the present matter he has earned AGCR for year 2025 & not earned AGCR in 2023 & 2024.*
- 2. That the accused was released on emergency parole which was further extended from time to time and finally he was directed to surrender in jail on 07.04.2023 by the Hon’ble Supreme Court of India and he did not surrender on 07.04.2023 and got re-arrested on 28.02.2024 in same case.*
- 3. That as per Delhi Prison Rule 2018, furlough is a reward to the convict and requires extra caution before granting it to an applicant like the convict.*

The convict may be informed under proper acknowledgement.”

3. The Petitioner’s request for furlough was rejected on two grounds: firstly, it was noted that he had earned AGCR for only one year (2025), whereas, according to Para 1223(I) of the Delhi Prison Rules, 2018, he was required to have earned AGCR for the last three years to be eligible for furlough. Secondly, his furlough application was denied because he failed to surrender on time after being released on emergency parole and was arrested almost a year later.

4. Counsel for the Petitioner argues that apart from the aforementioned punishment for jumping the emergency parole, the Petitioner’s conduct in jail during the last one year has been satisfactory. He submits that the delay

³ “IPC”



had occurred as the Petitioner was not informed of the last date of surrender.

5. The Court has considered the aforementioned contentions. As per the Nominal Roll dated 21st May, 2025, the Petitioner has undergone 11 years, 9 months and 12 days of custody and has earned remission of 2 years, 05 months and 20 days. He was granted parole in 2019 and 2020 and duly surrendered on both occasions.

6. As regards the ground for rejecting the Petitioner's furlough application, i.e., the lack of AGCR for the past three years, it is observed that the Petitioner's conduct was deemed unsatisfactory for the year 2024 solely due to his failure to surrender after being released on emergency parole. Apart from this incident, as per the Nominal Roll, there have been no other records of unsatisfactory conduct or punishments against the Petitioner since 2021. Additionally, the 2024 incident is now over a year old, and his conduct in prison has been satisfactory since then. Moreover, 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. In similar cases, this Court has taken a lenient view considering the circumstances arising out of the pandemic.

7. Additionally, it must be noted that the Supreme Court in *Asfaq v. State of Rajasthan*,⁴ 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

⁴ (2017) 15 SCC 55



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)

8. Further, in similar circumstances, a Co-ordinate Bench of this Court in ***Mohd. Suleman v. State of NCT of Delhi***,⁵ held that where there was a delay in surrender by the petitioner after being released on emergency parole, a sympathetic view could be taken.

9. In view of the above, the Court is of the opinion that the Petitioner is entitled to be released on furlough. Accordingly, the impugned order dated 05th May, 2025, is set aside and the Respondent is directed to release the Petitioner on furlough for a period of three weeks, upon furnishing a personal bond in the sum of Rs. 15,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent/Trial Court/Duty Metropolitan Magistrate, and subject to the following conditions:

(i) The Petitioner shall furnish the address at which he will be available during the period of furlough to the Jail Superintendent, which shall be

⁵ 2023:DHC:3679



verified by the State.

(ii) The Petitioner shall not leave the NCT of Delhi during the period of furlough, without the prior permission of this Court.

(ii) The Petitioner shall provide his mobile number(s) to the concerned Jail Superintendent and SHO - Kanjhawala, Delhi, at the time of his release, and the number(s) shall be kept in a working condition at all times.

(iii) The Petitioner shall appear before the SHO - Kanjhawala, Delhi, on every Monday between 11:00 AM and 11:30 AM to mark his presence. However, he shall not be kept waiting for longer than one hour for this purpose.

(iv) The Petitioner shall positively surrender before the concerned Jail Superintendent on the expiry of the period of furlough.

10. With the above directions, the present petition stands disposed of.

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

SANJEEV NARULA, J

AUGUST 29, 2025/MK