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

+ **W.P.(CRL) 3619/2024**

MANOJ

.....Petitioner

Through: **Mr. Siddharth Yadav, Advocate**

versus

STATE (NCT OF DELHI)

.....Respondent

Through: **Mr. Sanjay Lao Standing Counsel
(Crl.) for the State along with Ms.
Priyam Agrawal, Advocate
SI Ramakant, P.S. Sadar Bazar**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

10.01.2025

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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 28.10.2024 ('impugned order') passed by the Respondent, whereby the Petitioner's request for furlough for a period of two (2) weeks has been declined.

2. The impugned order records that the Petitioner was due to surrender on 06.09.2024 as per the last furlough; however, the Petitioner surrendered after delay of five (5) days on 11.09.2024. In addition, learned counsel for the Respondent states that the Petitioner cannot currently be enlarged on a furlough since the co-accused Rahul is on furlough and is scheduled to surrender on 14.01.2025.



3. Learned counsel for the Petitioner states that the delay in surrender by five (5) days on 11.09.2024, occasioned on account of the pendency of a petition before the Supreme Court, wherein the direction of surrender by 06.09.2024 could not be communicated by the then counsel to the Petitioner herein and this led to bona fide delay of five (5) days. He states that the furlough granted on 03.07.2024 had been extended from time to time and is expired on 06.09.2024.
4. He states that the Petitioner undertakes that there will be no delay in surrender, in future.
5. He further, states that the Petitioner may be granted two (2) weeks furlough, which two (2) weeks can commence after the other convict has surrendered back to the jail.
6. This Court has considered the submissions of the parties.
7. The Nominal Roll issued on 08.01.2025 records that the conduct of the Petitioner has been satisfactory and the Petitioner has also undergone 13 years, 11 months and 5 days in custody.
8. The Petitioner has offered a reasonable explanation for the delay in surrender of five (5) days between 06.09.2024 and 11.09.2024. The period of furlough granted in July, 2024 had been extended by the order of the Supreme Court and in these circumstances lapse in communication between the counsel and the Petitioner seems plausible. Importantly, the Petitioner was not re-arrested but had himself surrendered. The delay of five days is not unreasonable in these peculiar facts.
9. In the considered opinion of this Court, keeping in view the objective of grant of furlough and the fact that Petitioner has had a long incarceration, the Petitioner is entitled to grant of furlough for a period of two (2) weeks.



10. However, keeping in view the concerns expressed by the Respondent, it is directed that the Petitioner will become entitled to avail furlough of two (2) weeks only after the co-accused, Rahul has surrendered. It is clarified that if any other co-accused is on parole and/or furlough, then the Petitioner will become entitled to avail the furlough granted by this order only after the said co-accused(s) have surrendered.

11. In the facts noted above, this Court is satisfied that the Petitioner is entitled to a furlough for a period of two (2) weeks, 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 Sadar Bazar, Delhi every 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 Sadar Bazar, 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 National Capital Territory of Delhi 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 the complainant/victim or 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.

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

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

14. 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.

JANUARY 10, 2025/msh/MG

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any