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

Date of decision: 03rd March, 2025

+ W.P.(CRL) 3744/2024

DEVENDER KUMAR

.....Petitioner

Through: Mr. Vinayak Bhandari, Mr. Jaiswal Singh, Ms. Teesta Mishra and Mr. Ishaan, Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Amol Sinha, ASC for State with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Ms. Chavi and Ms. Sanskriti Nimbekar, Advocates with SI Neha, PS: New Ashok Nagar

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition has been filed seeking the following reliefs: -

“i. Issue a writ petition under article 226 and 227 of the Constitution Of India for the issuance of writ in the nature of Certiorari for quashing of the order Ref no. F .10(3 781883)/CJ/LEGAL/PHQ/2024/6932 dated 09.10.2024 passed by the DG prisons and in the nature of Mandamus directing the respondent to release the petitioner on 1st spell of furlough of three weeks in FIR No. 419/2012, P.S New Ashok Nagar & U/S 302/307 IPC.”

2. The Petitioner's application seeking release on furlough has been



rejected by the competent authority vide impugned order dated 09.10.2024. It is stated in the impugned order that Petitioner herein was released on emergency parole w.e.f. 26.06.2020, which was extended from time to time till 15.03.2021 during the COVID-19 pandemic. It records that the Petitioner failed to surrender and was in fact re-arrested on 28.06.2021 in another criminal case i.e., FIR No. 210/2021 registered under Section 387 of Indian Penal Code (IPC), PS: Preet Vihar, Delhi. It further records that in view of the aforesaid unsatisfactory conduct of the Petitioner, the Petitioner's application for seeking furlough has been dismissed vide impugned order dated 09.10.2024.

3. Learned counsel for the Petitioner states that Petitioner was granted bail by the concerned Court in FIR No. 210/2021. He states that subsequently in FIR No. 210/2021, Petitioner has been convicted on 23.12.2024 to the sentence already undergone.

4. He states that the Petitioner after being re-arrested on 28.06.2021 has neither being enlarged on parole or furlough. He states that for the last three years; the Petitioner has earned an annual good conduct report ('AGCR') consistently and continues to maintain good conduct in jail.

5. He, therefore, prays that Petitioner's request for furlough for the conviction year beginning from 28.06.2024 be considered.

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

7. A perusal of the Nominal Roll shows that the Petitioner has already undergone actual incarceration for a period of 11 years 01 months 26 days and remission earned is for a period of 02 years and 18 days as on 27.02.2025. The Nominal Roll dated 27.02.2025 records that the conduct of the Petitioner has been satisfactory. It also reflects that no punishment ticket



has been handed down to the Petitioner after 28.06.2021.

8. The submissions of the Petitioner in the writ petition that he has consistently earned 3 AGCRs is also not controverted in the status report filed by the Jail Superintendent.

9. Learned ASC states on instructions from IO that residential address of the Petitioner mentioned in the nominal roll has been verified. He states that father of the Petitioner resides at the said address.

10. With respect to FIR No. 210/2021, since the Petitioner has already served his sentence and it has been over three years since he has been released on parole or furlough; and the Petitioner has subsequently earned 3 AGCRs; the said fact cannot be the sole ground for declining the relief for furlough. In these facts considering that the Petitioner has remained incarcerated without any parole or furlough since 28.06.2021, this Court, therefore, finds that Petitioner has made out a reasonable case for grant of first (1st) spell of furlough for a period of three (3) weeks for the conviction year starting on 28.06.2024 from the date of release 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 New Ashok Nagar every Monday 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 Jail Superintendent and SHO, PS New Ashok Nagar, 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 reside at the residential address mentioned in the Nominal Roll.
 - v. The petitioner shall not leave the National Capital Territory of Delhi during the period of furlough, without the prior permission of this Court.
 - vi. 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.
 - vii. The petitioner is directed to surrender before the jail authorities at the expiry of the period of parole.
11. Accordingly, the petition is disposed of. Pending applications (if any) are also disposed of as being rendered infructuous.
12. Copy of the order be sent to the Jail Superintendent 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

MARCH 03, 2025/rhc/ms