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

+ **W.P.(CRL) 3771/2024**

RADHEY SHYAM

.....Petitioner

Through: Mr. Anirudh Tanwar, Adv.
(DHCLSC)
Mr. Rahul Raheja, Mr. Gaurav
Prakash, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC for State along
with SI Mukesh Kumar, PS Tilak
Nagar

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **10.01.2025**

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking quashing of the rejection order dated 05.10.2024 and pray for release of the Petitioner on 1st spell of furlough for a period of three (3) weeks on furnishing cash surety of Rs. 10,000/.
2. The impugned order dated 05.10.2024 records that the Petitioner has been denied furlough due to late surrender twice, on two (2) separate occasions on 03.07.2016 and in 10.09.2021.
3. Learned counsel for the Petitioner states that a coordinate bench vide order dated 09.08.2024 passed in W.P. Crl. No. 426/2023 has already



quashed the punishment Ticket no. 01 dated 26.12.2021 pertaining to the late surrender in the year 2021. He states that the Petitioner after 10.09.2021 not been neither granted furlough nor parole.

4. Learned counsel for the Petitioner states that the Petitioner will be residing at his permanent address furnished in the memo of parties.

5. Learned Additional Standing Counsel for the State, states that the said address has been verified. He has handed over a copy of the Status Report dated 15.12.2024 prepared by S.H.O., P.S. Tilak Nagar as the general diary no. 0070/O. He states that the Petitioner's permanent address furnished in the memo of parties at District Sultanpur, Uttar Pradesh has been verified and found to be correct. He is directed to have the Status Report along with general diary number placed on record.

6. This Court has considered the submissions of the parties and perused the record.

7. The Nominal Roll records that the conduct of the Petitioner has been satisfactory after his surrender on 10.09.2021.

8. The punishment ticket issued to the Petitioner for the lapse of delaying the surrender for the period 06.03.2021 to 10.09.2021 stands quashed by the order dated 09.08.2024. Thus, this delay could not have been the basis in the impugned order of declining the prayer for furlough.

9. So also, the reference to delay of three (3) days in surrendering 2016 was not relevant as the Petitioner has thereafter being granted furlough four (4) times in the year 2017 and 2018 by the Respondent; and the Petitioner has duly surrendered in 2017 and 2018.

10. The impugned order dated 05.10.2024 is accordingly set aside and the competent authority is directed to bear the observations made in this order



while considering subsequent application for furlough filed by this Petitioner.

11. The Petitioner's prayer for furnishing cash security is however declined as no grounds for seeking the said exemption are made out.

12. Keeping in view of the fact that the Petitioner has not been out on parole or furlough since 10.09.2021, this Court is of the opinion that the Petitioner is entitled to furlough for a period of three (3) weeks on furnishing personal bond and one surety of Rs. 10,000/- to the satisfaction of the jail superintendent on the conditions set out herein:

- i. The Petitioner will remain at his residence during the period of his release on furlough and his ordinary place of residence shall be the address furnished in the memo of parties.
- ii. The Petitioner shall report on every Monday at 11:30 A.M. to the Police Station under which the ordinary place of residence falls, during the period of his release on furlough. The Petitioner will not be kept waiting at the station beyond one hour i.e., 12:30 P.M.
- iii. The Petitioner will surrender to the Superintendent, Jail on the expiry of his period of release on furlough.
- iv. The Petitioner shall maintain peace and good behaviour during his period of release on furlough.
- v. The Petitioner shall not communicate with or come in contact with the complainant/victim or any member of the complainant/victim's family.

13. Accordingly, the writ petition along with pending application stands disposed of. The impugned order dated 05.10.2024 is set aside.

14. Copy of the order be sent to the Jail Superintendent for information



and necessary compliance.

15. 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/mt/sk **MANMEET PRITAM SINGH ARORA, J**

[Click here to check corrigendum, if any](#)