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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 4030/2024**

ALI HASAN @ ALI HASSAN

.....Petitioner

Through: **Mr. Zeeshan Diwan (DHCLSC) and
Mr. Harsha, Advs.**

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Ms. Rupali Bandhopadhyaya, ASC
SI Mahendra Patel, PS Narela**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **14.01.2025**

1. This petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the Petitioner seeking quashing of the rejection order dated 22.10.2024 ('impugned order'), whereby the Petitioner's application seeking grant of furlough for two (2) weeks has been declined.

2. Learned Additional Standing Counsel for the State submits that the grounds for declining the Petitioner's furlough are that the Petitioner herein had jumped the emergency parole granted to him in the year 2020; and he was re-arrested on 10.09.2022. She states that since the Petitioner has not earned three (3) Annual Good Conduct Reports (AGCRs); he is not entitled to grant of furlough.

3. In reply, learned counsel for the Petitioner states that the impugned order fails to take note of the order dated 27.09.2023 passed by coordinate bench of this Court in W.P.(CRL) 2047/2023 titled **Ali Hasan@ Ali Hassan v. State of NCT of Delhi** and order dated 10.04.2024 passed in W.P.(CRL)



1094/2024 titled **Ali Hasan@ Ali Hassan v. State of NCT of Delhi**, wherein the Petitioner herein was granted furlough for a period of three (3) weeks each in the year 2023 and 2024, respectively. He states that while passing the said orders, the predecessor Benches have duly considered the fact of the Petitioner having jumped the emergency parole in the year 2021; however, after recognizing the humanitarian purpose of grant of furlough, the predecessor benches had proceeded to grant furlough to the Petitioner in the years 2023 and 2024. He states that these facts are duly reflected in the Nominal Roll dated 12.11.2024, in column at serial no. 19. He states that the competent authority has not taken note of the aforesaid two orders passed by this Court and the fact that the Petitioner has thereafter duly surrendered within time, on both the occasions.

4. He therefore prays that keeping in view the fact that the Petitioner was last granted furlough of three (3) weeks in June, 2024, the Petitioner may be granted furlough for a period of two (2) weeks to establish his social ties with the family.

5. He also clarifies in response to the submissions of the learned counsel for the State that the Petitioner will be residing at the address in Bihar, which is duly mentioned in memo of parties.

6. This Court has considered the submission of the parties and finds merit in the submission of the Petitioner that the sole ground cited in the impugned rejection order dated 22.10.2024, already stand considered by the coordinate Benches of this Court in their orders dated 27.09.2023¹ and 10.04.2024².

7. The Petitioner has also shown/exhibited his good conduct by duly

¹ Passed in W.P.(CRL) 2047/2023 titled **Ali Hasan@ Ali Hassan v. State of NCT of Delhi**



surrendering after the expiry period of furlough in the years 2023 and 2024; and in fact, had not sought any extension of time for surrender. Moreover, it is evident from the Nominal Roll dated 12.11.2024 that the conduct of the Petitioner for the last two (2) years after his re-arrest has remained satisfactory. The said Nominal Roll also records that Petitioner is working as Jail Factory Sahayak. In these facts, the reference made in the impugned rejection order to the event of re-arrest in 2022 is not justified.

8. Keeping in view of the fact that the Petitioner has not been out on furlough since June 2024, and he would have otherwise been entitled to a furlough for two (2) weeks as per Rule 1221 of the Delhi Prison Rules, 2018, this Court is of the opinion that the Petitioner is entitled to furlough for a period of two (2) weeks on furnishing a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand only) with one surety of the like amount subject to the satisfaction of the concerned Jail Superintendent, on the conditions set out herein:

- i. The memo of parties reflects that the petitioner resides at Village Belwa, Jhawari, P.O. Gayyari, District Araria, Bihar PS Araria Chhota. In case of any change in address, the Petitioner is directed to inform the same to the concerned Jail Superintendent.
- ii. The Petitioner shall report to the SHO, PS Araria Chhota, District Araria, Bihar, once a week, on every Sunday at 10:00 A.M. The concerned officer shall release the Petitioner by 11:00 A.M., after completing all formalities.
- iii. The Petitioner shall furnish his mobile number to the concerned jail authorities and to the Investigation Officer and keep it operational at

² Passed in W.P.(CRL) 1094/2024 titled **Ali Hasan@ Ali Hassan v. State of NCT of Delhi**



all times.

- 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 or any member of the complainant's family or the witness to the trial.
 - vi. The Petitioner will surrender before the concerned Jail Superintendent immediately upon the expiry of his period of release on furlough.
9. Though, in the petition the Petitioner has requested for a cash surety of Rs. 10,000/-; after some arguments learned counsel for the Petitioner withdraws the said prayer and states that Petitioner will furnish a surety of Rs. 10,000/- to the satisfaction of the Jail Superintendent.
10. Learned counsel for the Petitioner also seeks a direction to the effect that in future, the competent authority ought to take into consideration, the effect of the aforementioned orders dated 27.09.2023 and 10.04.2024 passed by the coordinated benches and the order passed today, while considering the Petitioner's subsequent applications for furlough, as it needlessly compels the Petitioner to approach the Court, which results in delay in grant of the relief to the Petitioner.
11. He relies upon judgment of the coordinate Bench of this Court in **Sultan @ Rajesh v. State of NCT of Delhi**³, wherein paragraph no. 11 reads as under: -

“11. Post Script, I also find merit in the submission of the learned counsel for the petitioner that the same reason is being cited over and over again by the respondent for rejecting the application filed by the petitioner seeking furlough. The said condition has been considered by

³ 2024:DHC:664



this Court and has been rejected. This Court has today again by this judgment, rejected the similar ground. It is expected that the respondent shall not use this ground any further to deny furlough or parole to the petitioner, subject to any subsequent conduct of the petitioner giving rise to the said ground to be used again by the respondent.”

(Emphasis Supplied)

12. This Court finds merit in the submission of the Petitioner. The competent authority is directed to bear the observations made in this order and orders dated 27.09.2023 and 10.04.2024 while considering subsequent application(s) for furlough filed by the Petitioner herein. The competent authority cannot rely any further on the incident of Petitioner jumping emergency parole in 2021 and his subsequent re-arrest in the year 2022 to deny the relief of furlough to the Petitioner in future.

13. In the aforesaid facts and circumstances, the impugned order dated 22.10.2024 is set aside.

14. With the above directions, this petition stands disposed of.

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

16. 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 14, 2025/hp/MG