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

+ **W.P.(CRL) 16/2025**

MAHAVIR PRASADPetitioner

Through: Ms. Tanya Aggarwal, Advocate.

versus

STATE OF NCT OF DELHIRespondent

Through: Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar and Mr. Anurag
Arora, Advocates for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

28.02.2025

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1. A Writ Petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Petitioner, Mahavir Prasad, to challenge the Order dated 05.12.2024 *vide* which the Furlough in Case FIR No. 176/2010 under Section 302 of the *Indian Penal Code, 1860 ('I.P.C' hereinafter)* and Section 25/27 of the *Arms Act, 1959* registered at Police Station Aman Vihar, has been denied to him.

2. It is submitted in the Petition that the Petitioner has been undergoing RI for life along with fine for the offences punishable under Section 302 of the IPC, 1860 and Section 25/27 of the Arms Act. It is submitted that the Petitioner had filed an Application for grant of Furlough but the same has been dismissed on 05.12.2024 on the ground that the earlier Furlough, which was granted for three weeks w.e.f. 23.08.2024 to 14.09.2024 but the Applicant surrendered one day late i.e. 15.09.2024. A punishment/warning



has been recorded.

3. As per Standing Order No. 01/2019 if the Convict happens to commit any jail offence and a warning is issued, he shall be eligible for Furlough, after a gap of one year from the date of punishment. Moreover, the conduct of the Applicant was found unsatisfactory and consequently, Furlough was declined. It is submitted that the Applicant is 77 years old and suffering from various old aged ailments. He has undergone bypass surgery during his incarceration in jail and is now physically weak. He surrendered one date late only because of his medical condition. He undertakes to be careful in future. Hence, it is submitted that the Petitioner be granted Furlough for three weeks.

4. Learned ASC for the State submits that there is no infirmity in the impugned Order dated 05.12.2024. It is further submitted that for cogent reasons of delay of 1 day in surrender and consequent warning, which has been issued to the Petitioner, the Furlough has been rightly rejected.

5. **Submissions heard and the record perused.**

6. There is only a delay of one day in surrender for which a cogent explanation has been furnished by the Petitioner. Consequently, the impugned Order is set aside and the Petitioner be released on Furlough for a period of **two weeks**, on the following terms and 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.
- ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM during the period of Furlough.



- iii. The Petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of local Police Station, on which he can be contacted, if required. The said telephone number shall be kept active and operational at all the times by the Petitioner.
 - iv. The Petitioner shall ordinarily reside at the address mentioned in the Petition.
 - v. Immediately upon the expiry of period of furlough, the Petitioner shall surrender before the Jail Superintendent.
 - vi. The period of Furlough shall be counted from the day when the Petitioner is released from jail.
7. The Writ Petition is disposed of accordingly.

NEENA BANSAL KRISHNA, J

FEBRUARY 28, 2025/RS