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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 372/2025**
JAMAHIR @ JAWAHAR PASWAN

.....Petitioner

Through: Ms. Mudita Sharma, Ms. Gayatri
Nandwani and Mr. Adrian Abbi, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, SC for the State with
Insp. Manish Kumar, PS: Kirti Nagar

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
11.03.2025

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1. This is a petition under Article 226 of Constitution of India read with Section 528 of BNSS, 2023 seeking grant of 1st spell of furlough for a period of three weeks for maintaining Social Ties.
2. The application for grant of 1st spell of furlough was rejected by the competent authority on 01.10.2024 for the reason that the appellant had committed rape and murder of three years old girl and the case fell under Rule - 1225 of Delhi Prison Rules, 2018.
3. Mr. Arya, learned counsel appearing for the respondent supports the impugned order and states that furlough is a privilege and not a right under Delhi Prison Rules. He further states that the offence committed by the petitioner is heinous and shakes the conscious of a prudent man.
4. Ms. Nandwani relied on numerous judgments and more particularly



on *Sanjay Kumar Valmiki v. State of NCT of Delhi*, W.P.(Crl.) No. 2771/2022 and relevant portion is extracted below:-

“14 In light of the judgment of the Supreme Court in Atbir (supra) as well as the Delhi Prison Rules, 2018, it is no longer res integra that furlough is an incentive towards good jail conduct and the same can be granted even if the convict is not entitled to any remission and has been awarded imprisonment for life. The Supreme Court goes on to observe that even if a convict is released on furlough, he cannot seek remission as he has been awarded imprisonment for life. The objectives of granting furlough have been enumerated in Rule 1200 of the Delhi Prison Rules, 2018. The whole purpose and intent of granting furlough is based on the reformatory approach and it is considered to be an incentive for maintaining good jail conduct. Furlough not only helps the convict in maintaining links with his family but also helps in his integration with the society.

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16 In the present case, there cannot be any dispute with regard to the fact that the petitioner herein was convicted of a gruesome offence of having committed rape and murder of a minor and for the said offence, the petitioner has been awarded imprisonment for life without remission for a period of 25 years along with fine. In light of the legal principles laid down by the Supreme Court in Atbir (supra), the submission of the learned ASC that the furlough cannot be



granted to the petitioner in view of the gruesome crime committed by the petitioner cannot be accepted. Both Atbir and Chandrakant Jha, were convicted of multiple murders and yet the Supreme Court and the Division Bench of this Court respectively held that they were entitled to furlough.

17. The judgment in Atbir (supra) was also followed by this Bench in W.P.(CRL) 2745/2023 titled Kali Charan @ Kalka Prasad v. State of NCT of Delhi, wherein the petitioner was convicted of committing rape of a minor under Section 6 of Prevention of Children from Sexual Offences, 2012 and was awarded imprisonment for ten years.

18 In my considered view, only on the basis that the convict has committed a gruesome crime many years ago, it cannot be said that his temporary release on furlough would be against the interest of the society. There cannot be any presumption that the said convict will again commit a similar crime or create law and order problem in the society. There is no gainsaying that the furlough is granted to a convict undergoing long term imprisonment and long term imprisonment is awarded only in cases where gruesome crimes have been committed. In fact, depriving furlough to a convict, who is undergoing long term imprisonment, would be counterproductive to the reformatory approach and would also take away the motivation to maintain good conduct inside the jail.”

5. A perusal of the judgment shows that furlough can be granted even in



cases involving heinous and gruesome crimes as the whole purpose and intent of granting furlough is reformatory approach “the grant of furlough helps in maintaining ties with the family as well as integration with the society”.

6. In the present case, the appellant is convicted for life imprisonment and had already undergone 13 years 12 days of incarceration with a remission of 1 year and 3 months 27 days. Further, the petitioner has no other criminal case and his jail conduct is also satisfactory.

7. For the said reasons, the petition is allowed and the petitioner is granted 1st spell of furlough for a period of 3 weeks from the date of his release subject to the following terms and conditions:-

- a) The petitioner shall furnish a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with 01 local surety in the like amount, to the satisfaction of the Jail Superintendent;
- b) The petitioner shall furnish his cellphone number to the concerned Investigating Officer (‘IO’). on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- c) The petitioner shall not leave the country without the permission of the concerned court and if the petitioner has a passport, he shall surrender the same to the concerned Jail Superintendent;
- d) The petitioner will furnish his permanent address to the IO and in case he changes his address, he will inform the IO concerned;



- e) The petitioner shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending cases, if any.
 - f) The petitioner shall not indulge in any act or omission that is unlawful during the period of furlough;
 - g) The petitioner shall surrender after the expiry of 3 weeks of furlough.
8. The petition is disposed of.

JASMEET SINGH, J

MARCH 11, 2025/PU

Click here to check corrigendum, if any