



2025:DHC:5407

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

% *Date of Decision: 08.07.2025*

+ **W.P.(CRL) 1563/2025**

JITENDER @ KALLA

.....Petitioner

Through: Ms. Neha Kapoor and Mr.
Kushal Mehta, Advocates

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC
for the State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J (ORAL)

1. The petitioner, by way of this writ petition, seeks issuance of writ in the nature of *certiorari* for quashing of order bearing number F.10(3670839)/CJ/Legal/PHQ/2024/6774 dated 01.10.2024, passed by the Office of Director General of Prisons, Prison Headquarters, Tihar, and issuance of writ in the nature of *mandamus* seeking grant of first spell of furlough for a period of 21 days.

2. As evident from records, the petitioner herein is presently lodged in Central Jail No. 4, Tihar, New Delhi, and is serving life sentence awarded to him in cases arising out of FIR No. 67/1999, registered at Police Station Keshav Puram, Delhi, for commission of offence punishable under Sections 302/307 of the Indian Penal Code,



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1860 [hereafter ‘IPC’] and FIR No. 68/1999, registered at Police Station Mukherjee Nagar, Delhi, for commission of offence punishable under Sections 302/120B of the IPC.

3. The trial in both the aforesaid FIRs was concluded and the appellant was convicted for the alleged offences *vide* judgments and orders on sentence dated 17.03.2010. However, the petitioner had assailed the said judgments and orders by way of appeals (i.e. CRL.A. 666/2010 and 667/2010), and this Court had ordered re-trial in these cases. After re-trial, the petitioner was again convicted in these FIRs by the learned Trial Court *vide* judgments and orders on sentence dated 01.07.2013. In FIR No. 67/1999, P.S. Keshav Puram, he was awarded rigorous imprisonment for life (not to be considered for remission till he completes 30 years of actual incarceration) for offence under Section 302 of IPC, and rigorous imprisonment for 10 years for offence under Section 307 of IPC. In FIR No. 68/1999, P.S. Mukherjee Nagar, he was awarded rigorous imprisonment for life (for rest of natural life) for offence under Section 302 of IPC. Against these orders, appeals were preferred by the petitioner (i.e. CRL.A. 966/2013 and 967/2013) before this Court, and while his conviction was upheld, the embargo of no remission till 30 years was removed. However, this direction was thereafter set aside by the Hon’ble Supreme Court and the orders of the learned Trial Court were upheld, and it was further directed that the sentences awarded in both these cases shall run concurrently.

4. The learned counsel appearing for the petitioner submits that



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the petitioner has already undergone incarceration of about 24 years and 7 months, without remission.. He submits that the petitioner was released on parole/furlough on five occasions. It is submitted that the petitioner was lastly granted furlough w.e.f. 14.03.2024 to 29.03.2024 but his surrender was stayed by the Hon'ble Supreme Court till 18.05.2024. It is stated that the petitioner inadvertently failed to surrender on time and he had finally surrendered on 30.05.2024 i.e. twelve days late. It is further stated that the petitioner has faced long incarceration and needs to combat inner stress and depression arising out of prolonged incarceration. Therefore, the learned counsel for the petitioner prays that the present petition be allowed and the petitioner be granted furlough.

5. On the other hand, the learned ASC appearing on behalf of the State argues the petitioner had not surrendered on time, on the expiry of the period of parole, and had surrendered late by 12 days. It is also pointed out that the petitioner had also escaped from the custody on 15.07.2004 from AIIMS and was re-arrested on 11.08.2004. It is also argued that his overall jail conduct is also not satisfactory. Therefore, it is prayed that the present petition be dismissed.

6. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material placed on record.

7. In the present case, the petitioner seeks setting aside of the order dated 01.10.2024 passed by the concerned Competent Authority *vide* which his application for grant of furlough has been rejected. The relevant portion of the said order is set out below:



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“In this regard, I am directed to inform you that the Competent Authority has considered the application for grant of furlough and same has been declined at this stage for 12 days late surrender meaning thereby overstaying on furlough Ignoring the direction of Hon'ble Supreme Court vide order dated 18.05.2024 in SLP(Crl.) No. 4299/2024. The Rule 1239 of DPR-2018 clearly stipulates that overstaying on furlough would amount to misconduct on the part of the prisoner.

Considering the fact that furlough is a reward to a convict and requires "continuing good conduct" as one of the pre-requisite condition, hence, the application of furlough of the convict has been considered and declined by the competent authority in view of above facts.”

8. It is not disputed that the petitioner, after being released on furlough from 14.03.2024 to 29.03.2024 had not surrendered on time. However, it is material to note that the surrender of the petitioner was stayed by the Hon'ble Supreme Court. Eventually, vide order dated 09.05.2025, he was granted three weeks' time to surrender. However, notably, the said order was re-called by the Hon'ble Supreme Court on 18.05.2025. Thus, the petitioner was required to surrender before the jail authorities on 18.05.2025. However, he surrendered on 30.05.2024 i.e. about 12 days late.

9. The delay in surrender, in the peculiar facts of the case, appears to be a natural consequence of the circumstances. After the Hon'ble Supreme Court had granted three weeks' time to surrender, the subsequent recall of that order on 18.05.2025 may not have come to the petitioner's knowledge immediately. Thus, the delay of about 12 days in surrendering does not appear to be deliberate or wilful.

10. As per nominal roll, the petitioner had been issued a warning for late surrender. The impugned order is premised on the ground that



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Rule 1239 of Delhi Prison Rules, 2018 provides that overstaying furlough would amount to misconduct on the part of prisoner. But it is relevant to note that the said Rule itself mentions that punishment ‘may’ be awarded to the prisoner in such a case. Further, as per Rule 1178 of the Delhi Prison Rules, an inmate shall be eligible for Annual Good Conduct Remission, and any ‘warning’ given to him for a prison offence shall not be taken into account. Moreover, by way of an order dated 07.06.2019, the Standing Order No. 01/2019 was modified to the extent that in case a warning is issued to a convict, the shall not come in way of granting furlough to a convict.

11. It is clear from records that except the fact that a warning was issued to the petitioner for surrendering twelve days late in May, 2024, no misconduct has been reported against the petitioner for the last more than 13 years. The petitioner has been in jail for more than 24 years, without remission, and has been working as a *Chakkar Sahayak*.

12. The attention of this Court has also been drawn to Rules 1197 and 1200 of the Delhi Prison Rules, which read as under:

“1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of a prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:



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- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self- confidence,
- iii. To enable him to develop constructive hope and active interest in life,
- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and
- vii. To motivate him to maintain good conduct and discipline in the prison...”

13. It is evident that Rules 1197 and 1200 provide that the provision of furlough and parole are progressive and correctional measures, and lay down the objectives of furlough and parole. The petitioner also fulfils other conditions for grant of furlough as per Rule 1223.

14. Therefore, considering the aforesaid, and the period of incarceration of the petitioner, this Court is inclined to grant furlough to the present petitioner for a period of three (03) weeks, on 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.
- 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.



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- 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. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
 - v. The period of furlough shall be counted from the day when the petitioner is released from jail.
15. In view of the above, the present petition stands disposed of.
 16. A copy of this judgment be forwarded to the concerned Jail Superintendent for information and compliance.
 17. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 08, 2025/A