

(2025) 01 DEL CK 1736

In the Delhi High Court

Case No : Writ Petition (Crl) No.) 261 Of 2025

Bhagwan Malik @ Rajesh @ Babu

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 24-01-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Indian Penal Code, 1860 — Section 34, 302, 394

Citation : (2025) 01 DEL CK 1736

Hon'ble Judges : Swarana Kanta Sharma, J

Bench : Single Bench

Advocate : Faraz Maqbool, A. Sahitya Veena, Sana Juneja, Rupali Bandhopadhyia, Abhijeet Kumar, Anurag Arora

Final Decision : Disposed Of

Judgement

Swarana Kanta Sharma, J

1. The present petition under Article 226 of the Constitution of India, 1950, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter ? BNSS?) has been filed on behalf of the petitioner seeking setting aside of the Order No. F.10(003472811)/ CJ/LEGAL/PHQ/2024/M-303 dated 08.01.2025 passed by the competent authority, and seeks issuance of writ in the nature of mandamus, directing the respondent to release the petitioner on first spell of furlough for a period of three weeks.

2. Issue notice. Ms. Rupali Bandhopadhyia, the learned ASC accepts notice on behalf of the State.

3. The learned counsel appearing on behalf of the petitioner states that the petitioner herein was convicted in case bearing FIR No. 111/2006, for offences punishable under Sections 302/394/34 of the Indian Penal Code, 1860 (hereafter ?IPC?) registered at Police Station Sri Niwas Puri, Delhi. It is

submitted by the learned counsel appearing for the petitioner that the petitioner has been in judicial custody for last 18 years and 7 months and has been granted furlough on earlier occasion in the past.

4. Per Contra, the learned ASC appearing on behalf of the State submitted that the petitioner has misused the liberty granted to him, while he was out on furlough for a period of three weeks from 04.03.2024 to 25.03.2024, as he surrendered nine days late. Therefore, it is prayed that the present petition be dismissed.

5. This Court has heard arguments, and has perused material available on record.

6. The petitioner had applied for furlough, but the same was rejected vide Order No. F.10(003472811)/CJ/LEGAL/PHQ/2024/M-303 dated 08.01.2025, passed by Jail Authority, the relevant portion of which reads as under:

"That he was released on 03 weeks furlough w.e.f. 04.03.2024 t.o 25.03.2024 I I and he was granted stay from surrendering by the Hon'ble Apex Court. , , I , Further, the Hon'ble Apex court has dismissed the petition of the convict on 01.10.2024 and directed to surrender immediately but he surrendered late by 09 days on 10.10.2024. He has violated the conditions of furlough. Hence, his furlough stands rejected."

7. This Court notes that as per the nominal roll, the conduct of the present petitioner has been satisfactory, except that the petitioner surrendered 09 days late when he was out on furlough for a period of three weeks from 04.03.2024 to 25.03.2024. Concededly, the petitioner has been granted furlough on earlier occasions also.

8. The attention of this Court, has also been drawn to Rules no. 1197 and 1200 of the Delhi Prison Rules, 2018, which reads as under:

"1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of 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:

- 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..."

9. It is evident that Rule 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. This Court has also gone through Rule 1223 of Delhi Prison Rules, 2018 which provides criteria for grant of furlough. The said rule reads as under:

"1223. In order to be eligible to obtain furlough, the prisoner must fulfil the following criteria: -

- i. Good conduct in the prison and should have earned rewards in last 3 Annual good conduct report and continues to maintain good conduct.
- ii. The prisoner should not be a habitual offender.
- iii. The prisoner should be a citizen of India."

10. Thus, considering the overall facts and circumstances of the case, and that the petitioner has already been granted furlough on previous occasion, and has been in judicial custody for past 18 years and 7 months, this Court is inclined to grant furlough to the present petitioner for a period of three (03) weeks which is to be counted from the date of his release, 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.
- 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.

11. In view of the above, the present petition stands disposed of.

12. A copy of this judgment be forwarded to the concerned Jail Superintendent for information and compliance.

13. The judgment be uploaded on the website forthwith.