2025:DHC:9736-DB

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

Judgment reserved on: 04.11.2025
% Judgment delivered on: 07.11.2025

\+ W.P.(CRL) 2639/2025 & CRL.M.As. 24952-54/2025

DEEPAK SRIVASTAV .....Petitioner

Through: Mr.Ritesh Kumar Chowdhary, Adv. with Mr.Faheem, Adv.

versus

STATE OF NCT OF DELHI & ORS. .....Respondents

Through: Mr.Rahul Tyagi, ASC (Crl.) with Mr.Sangeet Sibou, Mr.Aniket Kumar Singh and Mr.Priyansh Raj Singh Senger, Adv. for R-1 to R-3.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. Proceedings of this petition have been instituted under Article 226 of the Constitution of India seeking a prayer to declare Clause F(3) of the Standing Order No. 1/2019 dated 26.03.2019 issued by the Director General (Prisons) as *ultra vires* the Constitution of India being violative of Article 14 and 21, as well as Delhi Prison Act and Rules made thereunder.

2. Alternatively, it has also been prayed that the aforesaid provision of the Standing Order may be struck down/ modified to the extent the same

imposes 01 year ‘watching period’ after return of the convicts to jail whose appeals have been dismissed and hold that a period of 06 months would be reasonable and sufficient.

3. The petitioner has also prayed for quashing of the order dated 23.07.2025 passed by the Director General of Prisons, New Delhi whereby it has been held that the petitioner is not eligible for grant of furlough in view of the impugned Standing Order No. 01/ 2019 with a further observation that he may file a fresh application for grant of furlough after 13.11.2025 i.e., after he completes one year from the date he was re-admitted to jail on dismissal of his appeal by the Hon’ble Supreme Court.

4. Another prayer made by the petitioner is that a direction be issued to release the petitioner on first spell of furlough for a period of 21 days and, thereafter on second spell of furlough starting on 12.10.2025 for a period of 21/28 days.

5. The petitioner was convicted for committing offences under Section 304B, 498A, 406 and 34 of the Indian Penal Code in Sessions Case No. 129/ 2001 on 10.12.2003 whereby he was sentenced to undergo rigorous imprisonment for life for the offence under Section 304B IPC. He was also sentenced to undergo rigorous imprisonment for three years with fine of Rs. 2,000/-, in default thereof, to undergo rigorous imprisonment for three months for the offence under Section 498A IPC. The petitioner, for the offence under Section 406 IPC was sentenced to undergo rigorous imprisonment for three years with a fine of Rs.2,000/- in default whereof, to undergo rigorous imprisonment for three months.

6. Challenging the order of conviction dated 10.12.2003, the petitioner preferred an appeal, namely Criminal Appeal No. 85/ 2004 before this Court wherein he also moved an application seeking suspension of sentence under Section 389 of the Code of Criminal Procedure. This Court, vide an order dated 02.06.2006 passed on the said application, directed the suspension of sentence of imprisonment of the petitioner. The Criminal Appeal, however, preferred by the petitioner challenging the order of conviction was dismissed by this Court on 30.08.2017.

7. The order passed by this Court dismissing Criminal Appeal No. 85/ 2004, dated 30.08.2017 was challenged by the petitioner by preferring a SLP before the Hon'ble Supreme Court. The Hon'ble Supreme Court suspended the sentence and granted bail to the petitioner during the pendency of the appeal. The SLP preferred by the petitioner before the Hon'ble Supreme Court was converted into Criminal Appeal No 132/ 2018. Disposing of the said appeal by means of an order dated 23.10.2024, the Hon'ble Supreme Court though upheld the conviction of the petitioner under Section 304B, 498A and 406 of IPC, however, reduced the sentence for the offence under Section 304B IPC from life imprisonment to actual rigorous imprisonment for a period of ten years imposing a fine of Rs. 1,00,000/-. It was also directed that in default of payment of fine, the petitioner shall undergo simple imprisonment for eight months.

8. The Hon'ble Supreme Court did not interfere with the sentence awarded to the petitioner for the offence under Section 498A IPC with a further observation that the challenge to his conviction and sentence under

Section 406 IPC was not pressed. The petitioner was directed to surrender within a period of three weeks from the date of passing of the said order. The petitioner thereafter surrendered and was re-admitted to jail on 13.11.2024. As per the assertion made by the petitioner, he had already completed seven years of actual imprisonment and, accordingly, filed an application seeking furlough in December, 2024 on the ground of his unblemished conduct and fulfillment of the eligibility criteria under Rule 1226 of the Delhi Prison Rules, 2018 (hereinafter referred to as '**the Rules, 2018'**), including three Annual Good Conduct Reports (AGCRs). Since the said application seeking furlough was not being decided, the petitioner filed Writ Petition (Criminal) No. 2026/2025, before this Court. The said writ petition was disposed of by this Court vide order dated 07.07.2025 directing the respondents to consider and decide the application made by the petitioner for release on furlough and convey the decision to the petitioner within three weeks.

9. In compliance of the said order dated 07.07.2025, the impugned order dated 23.07.2025 has been passed by the Director General of Prisons whereby it has been observed that the petitioner was not eligible for grant of furlough in view of the Standing Order No. 01/ 2019 providing further that the petitioner may file a fresh application for grant of furlough after 13.11.2025.

10. It is this order which has led the petitioner to institute the proceedings of the instant writ petition. Along with challenging the impugned order dated 23.07.2025, the petitioner has also laid challenge to Clause F(3) of the

Standing Order No. 01/ 2019 issued by the Director General of Prisons, Government of NCT of Delhi wherein it has been provided that if a convict is released on regular bail or on suspension of sentence till the disposal of appeal and is re-admitted in jail after a gap of more than one year, then the convict was not eligible for furlough immediately after admission in jail even if he had already earned three AGCRs during the period of his incarceration before release on bail in the same case. It also provides that the Superintendent of Jail may watch conduct of such a convict for one year from the date of re-admission in jail after disposal of appeal and it is only after lapse of period of one year from the date of re-admission in jail that such a convict shall become eligible for furlough, subject however, to maintain continuing good conduct and not on immediate basis of earned AGCRs. Thus, the sole basis of rejection of prayer made by the petitioner vide impugned order dated 23.07.2025 is the provisions contained in Clause F(3) of the Standing Order No. 01 of 2019.

11. Admittedly, after disposal of the appeal by the Hon'ble Supreme Court preferred by the petitioner, the petitioner surrendered and was re-admitted to jail on 13.11.2024 and in terms of the provisions contained in Clause F(3) of the Standing Order No. 01/ 2019, he would be eligible for seeking furlough only after one year from the date of surrender i.e. on 13.11.2025. It is for this reason that the authority concerned while passing the impugned order dated 23.07.2025 has also provided that the petitioner may file a fresh application for grant of furlough after 13.11.2025.

12. Thus, the validity of the impugned order dated 23.07.2025 will depend on the validity of the impugned Clause F(3) of the Standing Order No. 01/ 2019. We may also note that the Standing Order No. 01/ 2019 has been issued in compliance of an order dated 29.08.2018 passed by this Court in W.P.(CRL) 2552/2018 whereby the Court had directed to communicate the said order to the Director General (Prisons) to streamline the system and for framing uniform guidelines for grant of furlough/ parole to the convicts.

13. Impeaching the impugned Clause of the Standing Order No. 01/ 2019, learned counsel for the petitioner has argued that Clause F(3) in the Standing Order has been introduced without any authority of law. He has further argued that there is no justification either under the Delhi Prisons Act, 2000 (hereinafter referred to as '**the Act, 2000**') or the Delhi Prisons Rules, 2018 for one year observation period upon return of the convict to prison on dismissal of the appeal and, therefore, the impugned Clause of the Standing Order results in taking away the liberty of a convict for a period of 49 days which violates Article 21 of the Constitution of India as the same impinges upon the personal liberty without following any procedure established by law.

14. He has also argued that there is no justification of introducing an observation period of one year before consideration of prayer for grant of furlough to a convict, if he is re-admitted to jail after dismissal of appeal preferred against the conviction, and since the operation of the impugned provision contained in Clause F(3) of the Standing Order No. 01/ 2019 results in denial of personal liberty without due process of law, it is not only

unreasonable and violative of Article 14 of the Constitution of India but also amounts to infringement of fundamental right of the petitioner enshrined in Article 21 of the Constitution of India.

15. It is also the submission of learned counsel for the petitioner that the Standing Order No. 01 /2019 has been issued by the Director General of Prisons who does not have any jurisdiction to issue any such Standing Order for the reason that neither the Act, 2000, nor the Rules, 2018, framed thereunder empower the Director General of Prisons to issue any such Standing Order. In this view of the matter, his submission is that the impugned Standing Order No. 01/ 2019, itself is without any jurisdiction.

16. Drawing our attention to Section 71 of the Act, 2000, it has been submitted by learned counsel for the petitioner that the said provision empowers the Government to make rules to carry out the provisions of the Act and for the matters provided therein. It is further submitted by the learned counsel for the petitioner that Section 71(2)(xxx) of the Act, 2000 vests with the Government power to make Rules for temporary release, suspension and remission of sentence of prisoners which, according to the learned counsel for the petitioner, shall include furlough as well, however, the said provision or any other provision in the Act, 2000, does not vest any authority or power with the Director General of Prisons to issue any Standing Orders and, therefore, the impugned Standing Order No. 01/ 2019 itself is without any authority of law.

17. It is also the submission of learned counsel for the petitioner that even the rules framed under Section 71 of the Act, 2000, also do not contain any provision which empowers the Director General of Prisons to frame any Standing Order regulating the grant of furlough and, therefore, in absence of any such power available to the Director General of Prisons either under the Act, 2000 or under the Rules, 2018, the Standing Order No. 01/ 2019 issued by the Director General is completely unlawful as the same is without jurisdiction.

18. The other limb of argument of the learned counsel for the petitioner impeaching Clause F(3) of the Standing Order No. 01/ 2019 is that the period of watch for one year provided therein for a convict, for consideration of grant of furlough in a situation where such a convict is re-admitted to jail on dismissal of appeal, is unreasonable being excessive.

19. Citing the judgment of this Court in the case of ***Dinesh Kumar v. Govt. of NCT of Delhi*** (W.P.(C) 1229 OF 2012), it has been submitted on behalf of the petitioner that the purpose of furlough is not punitive but reformative which is intended to help the prisoner maintain social and familial ties, reduce psychological stress and prepare for reintegration into the society. He has further stated that the said judgment recognizes furlough as an important correctional measure within the framework of Article 21 of the Constitution of India.

20. It is also the argument of learned counsel for the petitioner that Clause F(3) of the Standing Order No. 01/ 2019 causes an unreasonable

classification between convicts who have filed an appeal against the conviction and those who have not. The submission in this regard is that the convicts who are re-admitted to jail after disposal of their appeal are required to wait for a mandatory period of one year before they become eligible for furlough regardless of conduct or AGCRs, whereas convicts, who do not file an appeal, continue to enjoy regular furlough every year without such restriction. It is argued that such a classification is not based on any intelligible differentia; neither does it have any rational nexus with the object sought to be achieved i.e. the object of furlough which is rehabilitation and reintegration of the convicts into the society.

21. The petitioner has drawn our attention to Rule 1210(V) of the Rules, 2018, which provides that in order to be eligible for release on parole, a minimum of six months ought to have elapsed from the date of surrender on conclusion of the previous parole availed and further that parole may be considered even if minimum six months' period has not elapsed in case of emergency from the date of termination of previous parole. It is, thus, the submission that on surrender on conclusion of previous parole, it is only six months' period of watch which has been provided under the Rules for the purposes of considering grant of subsequent parole, whereas in case of furlough, a fetter of one year of watch is provided which, thus, is not reasonable.

22. The submission, thus, is that six months' period appears to be reasonable for observation on return to jail and, therefore, period of one year

provided in case of grant of furlough to a convict who returns to jail on dismissal of appeal against conviction, is not sustainable.

23. Learned counsel for the petitioner has also drawn our attention to Rule 1257 of the Rules, 2018 which is in relation to consideration for premature release by the Sentence Review Board. It has been stated that even for re-consideration of case of a convict whose prayer for premature release has already been rejected, the period provided is six months from the date of last consideration by the Board and, therefore, the submission is that six months watch period appears to be reasonable, however, in case of eligibility for furlough of a convict whose appeal against the conviction has been dismissed, it is one year which is, thus, arbitrary.

24. Opposing the prayer made in the writ petition, learned counsel for the respondents has submitted that the impugned Standing Order No. 01/ 2019 has been issued to ensure compliance of the order passed by this Court in W.P.(CRL) 2552/2018 and further that the same has been issued with the objective of strict adherence to the protocol for uniformity and to streamline the furlough related applications which are to be considered in terms of the provisions in the Rules, 2018. He has further stated that the Standing Order No. 01/ 2019 is nothing but a bunch of instructions which are to supplement the provision of the Rules and, therefore, there is no illegality in the same.

25. Replying to the contention of learned counsel for the petitioner that no power or authority is available to the Director General of Prisons to frame Standing Orders either under the Act, 2000 or under the Rules, 2018, it has

been argued by learned counsel for the respondents that as a matter of fact, Standing Order is a bunch of instructions and since it has been issued only to supplement the provisions of the Rules, that too, in compliance of the order passed by this Court, tracing the power to issue the Standing Order either in the Act or in the Rules is not relevant for determining its validity. It is thus the submission on behalf of the respondents that the Standing Order having been issued under the order passed by this Court is lawful and valid. He has also stated that streamlining the processing of applications for furlough made by convicts who are imprisoned in the jail, the instructions contained in the Standing Order have been issued by the Director General of Prisons in exercise of his general administrative and supervisory powers. It is further stated by learned standing counsel representing the respondents that under law, the Director General of Prisons, Delhi has been empowered to administer the jails and supervise their functioning and, therefore, there is no illegality if certain instructions have been issued which are not in derogation of either the Act or the Rules, by the Director General of Prisons. His contention is that power and authority to issue instructions in the form of Standing Orders are thus to be traced to the general administrative and supervisory powers of the Director General of Prisons being the head of the administrative structure relating to prisons in Delhi.

26. He has further argued that it is completely wrong to say that the instructions contained in the Standing Order are unreasonable. Referring to the provisions contained in Clause F(3) of the Standing Order, it has been stated on behalf of the respondents that provision of one year watching

period is the minimum safeguard deployed by the prison authorities to ensure that convicts who had remained out of jail for a long period and have not been subjected to jail discipline are given a chance to get adjusted to the jail discipline. It is further stated that such provision is to ensure that convicts who may be susceptible to repeat the offence are not released into the society. It is also argued that imposing the condition of one year watching period is both reasonable and necessary and is in the interest of the society for balancing the competing interest of security of the society, jail discipline and reformatory approach. Paragraph 10 of the counter affidavit filed by the respondents has been emphatically referred to by learned counsel for the respondents, which is extracted hereunder:

> *"10. The above-condition is a minimum safeguard to ensure that the convicts, who had remained outside the jail for a long period, not subject to jail discipline and habits get adjusted to the same and to ensure that convicts, who may be susceptible to recidivism after joining other convicts are not released into society. That the interest of the society also have to be protected cannot be gainsaid. Thus, imposing the afore-said condition is both reasonable and necessary for balancing the competing interests of security of the society, jail discipline and reformatory approach."*

27. It is also the submission of learned counsel for the respondents that as held in ***State of Gujarat and Anr. v. Narayan***, (2021) 20 SCC 304, grant of furlough is not an absolute right of the convict and it can be denied by the competent authority if the convict does not meet the criteria. The learned counsel has thus stated that the submission of the petitioner needs to be examined in light of the said legal principle laid by the Hon'ble Supreme Court in ***Narayan*** (supra).

28. He has further stated that the submission of the learned counsel for the petitioner that application made by the petitioner was rejected by an authority not competent to decide the same is incorrect for the reason that the decision was taken on the said application only by the Director General of Prisons after following due procedure and the Deputy Superintendent (Legal) has only authenticated and communicated the decision of the competent authority. It has, thus, been argued that the writ petition does not bear any force which is liable to be dismissed.

29. We have considered the submissions made by learned counsel representing the respective parties and have also gone through the records available before us on this writ petition.

30. The impugned Clause F(3) of the Standing Order 01/ 2019 is extracted herein below:

> *"F……..*
>
> *1……..…*
>
> *2……..…*
>
> *3. If the convict who was released on regular bail/ suspension of sentence till disposal of appeal and was readmitted in jail after a gap of more than one year, then the convict shall not be eligible immediately after admission in jail even if he had already earned 3 AGCRs during the period of incarceration before release on bail in the same case. The Superintendent may watch his conduct for one year from the date of readmission in jail after disposal of appeal. For example, if a convict is released on 15.06.2017 and is readmitted in jail on 15.06.2018 after disposal of appeal, the convict will be eligible for furlough on 15.06.2019 (after a period of one year subject to maintain continuing good conduct and not on immediately basis of earned AGCRs.)"*

31. The Delhi Prisons Rules, 2018, have been made by the State Government in exercise of its power conferred on it under Section 71 of the Act, 2000, which empowers the Government to make rules generally to carry out the provisions of the Act, 2000. The particular subjects on which rules can be made under Section 71, albeit without prejudice to the generality of sub-section 1 of Section 71, have been mentioned in Section 71(2) of the Act, 2000. Thus, the Rules, 2018, are statutory in nature having been framed by the State Government under Section 71 of the Act, 2000.

32. The entire regime regulating grant of parole and furlough to the prisoners is governed by Chapter XIX of the Rules, 2018. The grant of furlough and procedure for disposal of applications seeking furlough are governed by Rule 1220 to Rule 1243 of the Rules, 2018. According to the statutory Scheme for grant of furlough as available in Rule 1220 to 1243, in order to be eligible for furlough, the prisoner must fulfill certain criterion which are, (1) he should be citizen of India, (2) he should not be habitual offender and (3) he should have exhibited good conduct in prison and should have earned rewards in three AGCRs and he continues to maintain good conduct. In the rules, certain categories of prisoners, such as those convicted under sedition, terrorist activities and NDPS are not eligible for release on furlough. Those prisoners whose presence in the society may be considered dangerous or prejudicial to public peace and order by the District Magistrate are also not eligible to be released on furlough. Even the convicted foreigners are also not eligible to seek furlough. Certain other categories of prisoners in terms of the said rules are also not eligible.

33. Rule 1226 provides that an application for grant of furlough is to be submitted by the convict or his family members to the Superintendent of Jail containing certain details given therein. Such an application is to be forwarded to the police station concerned and report from the police station and the investigating agency are also required which should be based on a fair inquiry. Thereafter, the application seeking furlough is to be forwarded to the competent authority by the Superintendent of Prisons and the competent authority authorized to sanction furlough, may make order for release of the prisoner, subject to certain conditions. One of the considerations to determine the eligibility to obtain furlough as given in Rule 1223 is that the prisoner should have earned rewards in last three AGCRs and he continuous to maintain good conduct. Thus, merely earning three AGCRs does not suffice for making eligible a convict to seek furlough. In addition to three AGCRs, for being eligible to seek furlough, a convict should continue to maintain good conduct. Thus, the impugned Clause F(3) of the Standing Order No. 01 of 2019 provides as to how determination of whether the convict concerned had continued to maintain good conduct, can be done. What we find, thus, is that Clause F(3) of the Standing Order No. 01 of 2019 has been prescribed only to supplement Rule 1223 (1) in the sense that Clause F(3) of the Standing Order No. 01 of 2019 provides a mechanism to determine the fact as to whether the convict seeking furlough, has continued to maintain good conduct.

(Emphasis by the Court)

34. We are also of the opinion that to come to a conclusion that the convict having earned three AGCRs has or has not continued to maintain good conduct, a watch period of one year has been prescribed therein which only supplements the provisions contained in Rule 1223 (1) of the Rules, 2018. As a matter of fact, the Standing Order No. 01 of 2019 is nothing but a compilation of instructions, which have been issued in order to appropriately apply the rules while considering/processing any application/prayer for grant of furlough. Thus, the impugned provision contained in Clause F(3) of the Standing Order No. 01 of 2019 is supplemental to the rules, which authority, in our opinion, can very well being exercised by the Director General of Prisons under his general administrative and supervisory power of control over the affairs of the prisons.

35. Clause F(3) of the Standing Order No. 01 of 2019 which is under challenge herein has, thus, been issued by the Director General of Prisons exercising his general administrative powers and since such a provision does not, in any manner, infringes and contradicts any provision either of the Act, 2000 or of the Rules, 2018, we are of the opinion that the same cannot be said to be without jurisdiction or illegal being *ultra vires*.

36. Considering the other submission of learned counsel for the petitioner that the impugned provision infringes the right of liberty as enshrined under Article 21 of the Constitution of India, we may observe that right to seek furlough is not an absolute right; it is rather a right governed by the statutory

prescriptions embodied in the Act, 2000 and the Rules made thereunder, enacted by the competent legislature.

37. It is also to be noticed that a person seeking furlough is a convict under law, who is incarcerated under a validly passed order by a competent Court. In the instant case, order of conviction of the petitioner has been upheld up to the Hon'ble Supreme Court and therefore, if by operation of any statutory rule or any statutory provision, furlough is being denied to the petitioner, it cannot be said that it shall amount to denial of right of liberty enjoyed by the petitioner. Right to liberty under furlough or parole is regulated by the Act, 2000 and the rules framed thereunder and therefore, any infringement of such a right can only be attended to by the Courts, if the petitioner or any other person is able to establish infraction of the provisions of the Act, 2000 or rules framed thereunder.

38. Hon'ble Supreme Court in ***Narayan*** (supra) has categorically held that though furlough can be claimed without a reason, the prisoner does not have an absolute legal right to claim furlough and further that the grant of furlough must be balanced against the public interest and can be refused to certain category of prisoners. The said observations have been made in paragraphs 24.4 and 24.5, which are extracted herein below:-

> *"24.4. Although furlough can be claimed without a reason, the prisoner does not have an absolute legal right to claim furlough.*
> *24.5. The grant of furlough must be balanced against the public interest and can be refused to certain categories of prisoners."*

39. Furlough, as observed by Hon'ble Supreme Court in ***Narayan*** (supra), is a short term temporary release from custody and the same being not an

absolute legal right of a convict, can be regulated by the legislature, which in the instant case is regulated by the Act, 2000, enacted by the State legislature and the rules framed thereunder by the Government under Section 71 of the Act, 2000. Thus, any infringement of right to seek furlough can be pleaded only in case a convict is able to show contravention of any of the provisions of either the Act, 2000, or the Rules, 2018, and accordingly, if by the Act, 2000 or the Rules, 2018, or even by issuing certain instructions supplemental to the rules, if a provision has been made that a convict shall be eligible to be considered for being released on furlough only after a year from the date he is readmitted in the jail once his appeal is dismissed, it cannot be said that such a provision, in any manner, infringes Article 21 of the Constitution of India. Thus, the submission of the learned counsel for the petitioner based on Article 21 of the Constitution of India does not bear any force which accordingly merits rejection.

40. We would now consider the submission of the learned counsel for the petitioner that impugned Clause F(3) of the Standing Order No. 01 of 2019 creates a separate class without there being any intelligible differentia in as much as that those convicts whose appeals are dismissed, are put to a watch for a period of one year, whereas in case of an application for furlough made by a convict, who has not preferred an appeal against his conviction, no such fetter is applied.

41. The submission of the learned counsel for the petitioner that the convicts whose appeals have been dismissed and those who have not challenged their order of conviction in appeal form the same class, in our

considered opinion, is full of fallacy. The difference between these two classes of convicts lies in the fact that one class of convicts has chosen not to challenge the conviction by filing appeal, whereas the other class of convicts file their appeal challenging the conviction, though the same is dismissed. The factum of filing of appeal and its dismissal by one set of convicts itself is the basis of differentiating between these two sets of convicts. Such a classification cannot be said to be unreasonable if it results by operation of Clause F(3) of the Standing Order No. 01 of 2019 for the reason that once a convict's appeal is dismissed against the conviction, in all probability, he will have to undergo the entire term of sentence of imprisonment awarded to him except for the period where he is entitled to parole or premature release, whereas in case a convict who has not preferred appeal against the order of conviction has to be treated on a different footing simply for the reason that if at a particular point of time a convict has not preferred the appeal, the possibility of such a convict preferring appeal at a later point of time cannot be denied.

42. It is also to be noticed that Clause F(3) of the Standing Order No. 01 of 2019 applies in a situation where a convict is readmitted to the jail for serving remainder of his term of imprisonment on dismissal of appeal and therefore, for balancing the interest of the society and also to fulfill the purpose of grant of furlough, the provision has been made in Clause F(3) of the Standing Order No. 01 of 2019 for having a watch period of one year. In case of a convict who has not preferred an appeal, there is no question of

him being re-admitted to the jail as he would continue to serve his sentence and will not be out of prison.

43. At this juncture, we must note that once a convict is released on bail or on suspension of sentence and is out of jail, and thereafter, on dismissal of appeal is re-admitted to jail, he certainly would take some time to become accustomed to the discipline of the jail and habits inside the jail. Such an occasion for the convicts who have not preferred the appeal against their conviction, does not arise because they are not out of jail, rather they are serving their sentence. Accordingly, the submission that the convicts who have preferred appeal which are dismissed and the convicts who have not preferred any appeal against their conviction form the same class, is absolutely, in our considered opinion, misconceived and therefore, we opine that the impugned provision is not violative of Article 14 of the Constitution of India.

44. Another submission has been made that for grant of parole after expiry of the period of earlier parole, the watch period of six months has been provided and also for consideration of prayer for premature release after rejection of an earlier application for premature release, six months watch period has been provided and therefore, one year watch period provided in case of making a convict eligible for grant of furlough when he is re-admitted to jail on dismissal of appeal, is unreasonable. Such submission, in our considered opinion, is also misconceived for the reason that though both parole and furlough are conditional release, however, there lies a difference between these two in the sense that parole is generally

granted in case of short term imprisonment, whereas furlough is granted in case of long term imprisonment and that for grant of parole, specific reason is required, whereas furlough is meant for breaking the monotony of the imprisonment. Another difference between these two terms is that term of imprisonment is not included in computation of the term of parole, whereas it is *vice-versa* in furlough. The said differences have been outlined by the Hon'ble Supreme Court in paragraph 22 of the judgment in ***Narayan*** (supra), wherein it has also been observed that parole can be granted a number of times, whereas there is limitation in the case of furlough. The Hon'ble Supreme Court has also stated that since furlough is not granted for any particular reason, it can also be denied in the interest of the society. Paragraph 22 of the judgment in ***Narayan*** (supra) is extracted herein below:-

> *"22. Summarising the difference between parole and furlough, the Court noted that : (Asfaq case [Asfaq v. State of Rajasthan, (2017) 15 SCC 55 : (2018) 1 SCC (Cri) 390] , SCC pp. 61-62, para 16)*
>
> > *"16. … (i) Both parole and furlough are conditional release.*
> > *(ii) Parole can be granted in case of short-term imprisonment whereas in furlough it is granted in case of long-term imprisonment.*
> > *(iii) Duration of parole extends to one month whereas in the case of furlough it extends to fourteen days maximum.*
> > *(iv) Parole is granted by Divisional Commissioner and furlough is granted by the Deputy Inspector General of Prisons.*
> > *(v) For parole, specific reason is required, whereas furlough is meant for breaking the monotony of imprisonment.*
> > *(vi) The term of imprisonment is not included in the computation of the term of parole, whereas it is vice versa in furlough.*
> > *(vii) Parole can be granted number of times whereas there is limitation in the case of furlough.*

> *(viii) Since furlough is not granted for any particular reason, it can be denied in the interest of the society.*
> *(See State of Maharashtra v. Suresh Pandurang Darvakar [State of Maharashtra v. Suresh Pandurang Darvakar, (2006) 4 SCC 776 : (2006) 2 SCC (Cri) 411] and State of Haryana v. Mohinder Singh [State of Haryana v. Mohinder Singh, (2000) 3 SCC 394 : 2000 SCC (Cri) 645] .)""*

45. We may also notice that parole can be sought in case of emergency as well and therefore, the watch period of six months has been found to be sufficient for subsequent consideration of prayer for parole for the reason that conceptually there is a lot of difference between parole and furlough including the difference in the purposes for which the parole and furlough are granted, and therefore, the plea by the petitioner that one year watch period in the instant case is unreasonable, appears to be misconceived.

46. So far as the watch period of six months for the purposes of reconsideration of prayer for premature release is concerned, we may only observe that the eligibility for premature release and grounds on which premature release is granted to a prisoner are entirely different than the purpose and eligibility for grant of furlough and therefore, seeking parity so far as the watch period is concerned for consideration of the prayer for grant of furlough and premature release, in our opinion, is not sustainable.

47. For the reasons given and discussion made above, we do not find any good ground either to interfere in the impugned Clause F(3) of the Standing Order No. 01 of 2019 issued by the Director General of Prisons, Delhi or in the impugned order dated 23.07.2025, whereby the petitioner has been held to be ineligible for grant of furlough.

48. Resultantly, the writ petition fails which is hereby dismissed along with pending application(s), if any.

49. There will be no order as to costs.

50. It is, however, directed that in case the petitioner applies for grant of furlough after 13.11.2025, such prayer shall be attended to by the authority concerned and shall be decided at the earliest in accordance with law.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

NOVEMBER 07, 2025
N.Khanna/ ***"shaildra"***