2026:DHC:14

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

% *Judgment reserved on: 20.12.2025*
Judgment pronounced on: 05.01.2026
Judgment uploaded on: 06.01.2026

\+ **W.P.(CRL) 3044/2025**

VINOD @ VINODE @ BHOLE .....Petitioner

Through: Mr. Zeeshan Diwan, Advocate (DHCLSC) with Mr. Harsha, Advocate

versus

THE STATE (GOVT OF NCT) DELHI .....Respondent

Through: Mr. Yasir Rauf Ansari, ASC for the State with Mr. Alok Sharma, Advocate and with SI Upendra Pandey, PS New Ashok Nagar

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of the present petition, the petitioner seeks issuance of a writ in the nature of certiorari for quashing rejection order No. *F.10(3489808)/CJ/Legal/PHQ/2025/5289* dated 04.09.2025, passed by the competent authority, whereby his application for furlough was rejected. The petitioner also seeks a writ in the nature of mandamus directing the respondent to release him on furlough for a period of

three weeks.

2. The petitioner is presently confined in Central Jail No. 8, Tihar, New Delhi. *Vide* judgment dated 20.07.2013, the petitioner was convicted for commission of offences punishable under Sections 364A/368/344/347/120B/34 of the IPC in case arising out of FIR No. 393/2007, registered at Police Station New Ashok Nagar, Delhi, and was sentenced to undergo imprisonment for life. His appeal against conviction, being CRL.A. 1492/2013, was dismissed by this Court *vide* judgment dated 25.02.2016.

3. The record reveals that on 19.07.2025, the petitioner had filed an application seeking grant of first spell of furlough, *inter alia,* on the grounds of maintaining family relations and social ties, and to alleviate inner stress arising from long incarceration. Pursuant thereto, verification of the facts and contents of the application was sought from the concerned Police Department *vide* letter dated 21.07.2025, and a Social Investigation Report was called for from the Chief Probation Officer by the jail authorities. The Social Investigation Report dated 01.08.2025 was thereafter received. The petitioner's application, along with all requisite documents, was then forwarded to the competent authority for consideration *vide* letter dated 18.08.2025. However, the said application was rejected by the competent authority *vide* the impugned order dated 04.09.2025, on the ground that the petitioner is a habitual offender, rendering him ineligible for furlough under Rule 1223(ii) of the Delhi Prison Rules,

2018. The impugned order records as under:

> " The convict is a Habitual Offender having convicted in more than 06 different cases apart from life Imprisonment in case FIR No. 393/2007, hence he is not eligible for grant of furlough in view of Rule 1223(ii) of Delhi Prison Rules-2018 is reproduced as under:-
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> "In order to be eligible to obtain furlough, the prisoner must fulfil the following criteria: - **"The prisoner should not be a habitual offender"**
>
> The convict may be informed under proper acknowledgement…"

4. The learned counsel appearing for the petitioner contends that furlough has been denied to the petitioner solely on the ground that he has been termed a habitual offender, despite the petitioner otherwise fulfilling all eligibility criteria under Rule 1220 of the Delhi Prison Rules, 2018 [hereafter '*DPR, 2018*']

5. It is contended that the petitioner has been in custody for more than 16 years and 11 months in actual incarceration, and for more than 20 years including remission. It is argued that the impugned rejection is based on an erroneous understanding of the expression "habitual offender". The learned counsel draws this Court's attention to the judgment of the Hon'ble Supreme Court in ***Sukanya Shantha v. Union of India***, wherein the Supreme Court struck down varying definitions of "habitual offender" across prison rules in different States and directed the Union of India to prescribe a uniform definition. Pursuant thereto, the Government of India issued a

circular dated 30.12.2024 (No. V-17014/1/2024-PR), amending the definition of "habitual offender" as follows:

> "Habitual offender means a person who during any continuous period of five years, has been convicted and sentenced to imprisonment on more than two occasions on account of any one or more of the offences committed on different occasions and not constituting parts of the same transaction, such sentence not having been reversed in appeal or review.
>
> Provided that in computing the continuous period of five years referred to above, any period spent in jail either under sentence of imprisonment or under detention shall not be taken into account."

6. It is submitted that the petitioner does not fall within the aforesaid definition, as he was already incarcerated since 2007, and the subsequent convictions were recorded while he continued to remain in custody. Therefore, there does not exist any continuous period of five years of liberty during which he was convicted and sentenced on more than two occasions.

7. The learned counsel for the petitioner further submits that Serial No. 20 of the nominal roll reflects the satisfactory conduct of the petitioner. The petitioner has been granted parole on five occasions, furlough on seven occasions, and emergency parole twice during the COVID-19 period. It is contended that the petitioner has not misused parole or furlough, except during emergency parole in 2021 when he was re-arrested in FIR No. 210/2021 under Section 25 of the Arms Act, registered at Police Station Special Cell, Delhi. It is pointed out that despite the said FIR, this Court granted parole to the petitioner on three subsequent occasions in the years 2023, 2024, and

2025, which itself demonstrates that the petitioner's conduct has not been found to be such as to disentitle him from parole or furlough. It is also argued that denying furlough to the petitioner in the year 2025 on the basis of cases registered between 1995 and 2007 would amount to continued punishment, ignoring the object of furlough and the fact that no offence has been committed by the petitioner for nearly 18 years, save and except the pending case of 2021.

8. The learned ASC appearing for the State, on the other hand, argues that the impugned order dated 04.09.2025 does not suffer from any infirmity and has been passed strictly in accordance with the DPR, 2018. It is contended that the Government of India, *vide* circular dated 30.12.2024, has clearly specified the definition of "habitual offender", and the expression "*on account of any one or more of the offences committed on different occasions*" makes it abundantly clear that the relevant consideration is the time of commission of the offence, and not the date of conviction. The learned ASC contends that the petitioner has committed one offence in 1994, one in 1995, two in 2001, one in 2003, two in 2007, and one in 2021, for which he has been convicted by the concerned Courts, and thus, his conduct clearly reflects habitual criminality, and he would fall within the meaning of "habitual offender". It is urged that the period of counting has to be done taking into account the time of the offence committed, and the petitioner's contention that he was incarcerated at the time of conviction is illogical, as the determination of habituality cannot be made contingent upon the time taken by

courts to conclude trials.

9. It is also argued on behalf of the State that the petitioner has misused the liberty earlier granted to him, as while on emergency parole, he was re-arrested in FIR No. 210/2021 under Section 25 of the Arms Act, and therefore, the competent authority was justified in declining furlough. On the aforesaid grounds, it is prayed that the present petition be dismissed as being devoid of merit.

10. This Court has **heard** arguments addressed on behalf of the petitioner as well as the State, and has perused the material available on record.

11. The issue before this Court is as to whether the impugned rejection of the petitioner's furlough application on the ground of his being a "habitual offender" is sustainable in law.

12. The records of petitioner's criminal cases wherein he has been convicted by the concerned courts, to the extent they are relevant, are as under:

- FIR No. 44/1994 – conviction dated 04.08.2014
- FIR No. 22/1995 – conviction dated 12.01.2024
- FIR No. 111/2001 – conviction dated 21.12.2013
- FIR No. 128/2001 – conviction dated 03.02.2023
- FIR No. 121/2003 – conviction dated 20.07.2016
- FIR No. 295/2007 – conviction dated 30.11.2013
- FIR No. 393/2007 – conviction dated 30.08.2013

13. It is an admitted position that the petitioner has been continuously in judicial custody since 05.10.2007. The first conviction recorded against him after his incarceration was on 30.08.2013, and all subsequent convictions were also recorded while he continued to remain in custody.

14. The learned counsel for the petitioner has argued that in view of the new definition of "habitual offender", the petitioner cannot be so classified since all convictions relied upon by the competent authority were recorded while the petitioner was already in judicial custody, and consequently, there does not exist any continuous period of five years, excluding jail period, during which he was convicted and sentenced to imprisonment on more than two occasions. *Conversely*, the learned ASC for the State argues that the definition refers to offences committed on different occasions, and therefore, the relevant consideration is the time of commission of offences and not the date of conviction; and therefore, since the petitioner committed three offences in the period 2003 to 2007 for which he has been convicted eventually, he would fall within the ambit of "habitual offender".

15. In this regard, it would be apposite to notice the definition of the expression "habitual offender" as it presently stands. Pursuant to the directions of the Hon'ble Supreme Court and the subsequent circular issued by the Government of India dated 30.12.2024 (No. V-17014/1/2024-PR), the definition of "habitual offender" reads as

under:

> "Habitual offender means a person who during any continuous period of five years, has been convicted and sentenced to imprisonment on more than two occasions on account of any one or more of the offences committed on different occasions and not constituting parts of the same transaction, such sentence not having been reversed in appeal or review.
>
> Provided that in computing the continuous period of five years referred to above, any period spent in jail either under sentence of imprisonment or under detention shall not be taken into account."

16. This definition, having been adopted uniformly, now governs the consideration of eligibility for furlough as it has replaced the earlier sub-Rule 20 of Rule 2(1) of the DPR, 2018, which provides the definition of habitual offender.

17. A plain and careful reading of the aforesaid definition makes it clear that a person can be termed a "habitual offender" only if all the following essential conditions are cumulatively satisfied:

(i) the person has been *convicted* and *sentenced* to imprisonment on more than two occasions;

(ii) such convictions and sentences have occurred within a continuous period of five years;

(iii) while computing the said five-year period, any time spent in jail, either under sentence or detention, is to be excluded;

(iv) the convictions must arise from offences committed on different occasions, and not from the offences forming part of same transaction; and

(v) the convictions relied upon must be final and subsisting, and not reversed in any appeal or review.

18. ***In this Court's opinion***, the amended definition of "habitual offender" places clear emphasis on the expressions "has been convicted and sentenced to imprisonment". The definition does not provide that a person who has merely committed offences on more than two occasions within five years would become a habitual offender. What is material under the definition is the fact of 'conviction and sentence', and not the mere commission of offences or registration of FIRs.

19. Further, the words "during any continuous period of five years" preceede the phrase "has been convicted and sentenced to imprisonment", and therefore, the five-year period contemplated under the definition is linked to the convictions and sentences. This position is further clarified by the proviso, which mandates that while computing the said period of five years, any time spent in jail, whether under sentence or detention, must be excluded. Once the proviso is applied, it becomes evident that the definition envisages a situation where a person, while at liberty, is convicted and sentenced to imprisonment on more than two occasions within a span of five years.

20. This Court is also of the view that the words "on account of any one or more of the offences committed on different occasions" serve a limited and specific purpose. They clarify that the convictions

relied upon must arise from offences committed on distinct occasions and must not form part of the same transaction. This expression does not relate to the computation of the five-year period, which the definition expressly links to the stage of conviction and sentence. Therefore, the said phrase cannot be construed as shifting the point of reference from the date of conviction to the date of commission of offences, as suggested on behalf of the State.

21. Also, if the interpretation suggested by the State is accepted, it would lead to results that are not supported by the plain language of the definition. For instance – if the interpretation advanced by the State is adopted – it would mean that if a person commits offences in the years 2000, 2001 and 2002, but is convicted in the years 2005, 2012 and 2018 respectively, he would be treated as a habitual offender on the basis of the dates of commission of offence, even though the convictions are spread over several years, and not a period of five years. On the other hand, if a person commits offences in the years 2000, 2007 and 2008, and is convicted in the years 2011, 2012 and 2013, he would not be treated as a habitual offender, even though the convictions are recorded within a period of five years. In the considered opinion of this Court, such an interpretation would be in direct contradiction to the clear wording of the definition of 'habitual offender', which clearly emphasises on "conviction and sentence" within a continuous period of five years.

22. Applying the definition – as it stands – to the facts of the

present case, this Court finds that the petitioner has been in judicial custody since 05.10.2007, and all the convictions relied upon by the respondent authority were recorded thereafter. Once the period spent in jail is excluded, as mandatorily required by the *proviso*, there does not exist any continuous period of five years during which the petitioner was convicted and sentenced to imprisonment on more than two occasions.

23. In view of the above, this Court is of the considered opinion that the petitioner does not satisfy the statutory requirements of being a "habitual offender" under the amended definition. Consequently, the impugned rejection of the petitioner's furlough application on the said ground cannot be sustained in law.

24. In view thereof, the impugned rejection order is set aside.

25. However, the matter is remanded back to the competent authority for reconsideration of the petitioner's furlough application afresh, in accordance with the DPR, 2018. It is clarified that the petitioner's application shall not be rejected on the ground of his being a "habitual offender". The competent authority shall pass an order thereto within a period of four weeks from the date of receipt of a copy of this order, with intimation to the petitioner.

26. In above terms, the petition is disposed of.

27. Let a copy of this order be forwarded to the concerned Jail Superintendent for necessary information and compliance.

28. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 05, 2026/zp
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