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

% ***Date of Decision: 03.11.2026***

\# **CNR No. DLHC010531072026**

\+ **W.P.(CRL) 3446/2026**

RAJ KISHORE .....Petitioner

Through: Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Ms. Ragini Nagpal, Ms. Charu Sinha, Mr. Akash Sachan, Mr. Shriharsh Raj, Mr. Shashank Tewari, Ms. Akansha Bisht, Mr. Raghav Gupta, Mr. Arjun Chopra, Mr. Rahul E, Advs.

versus

STATE (NCT OF DELHI) & ANR. .....Respondents

Through: Mr. Amol Sinha (ASC-Crl) along with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Nitish Dhawan, Mr. Gourav Singh, Advs.
SI Sunil (P.S. Adarsh Nagar, Delhi)

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*Oral*.)

CRL.M.A. 34604/2026 (Exemption from filing certified copies of annx.)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(CRL) 3446/2026

3. By way of the present petition, the petitioner, who is serving life imprisonment in FIR No. 179/2011, under Sections 363/364A/120B/34 of the Indian Penal Code, 1860, and lodged in Central Jail No. 2, Tihar, New Delhi,

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18:32:42

assails the order No. F.10(3554984)/CJ/Legal/PHQ/2026/71, dated 22.09.2026 ("impugned order"), passed by DS-Legal, Prisons Headquarters, Tihar, wherein the petitioner's release on furlough (request approved on 13.08.2026) simultaneously with co-convict Dal Chand (petitioner's nephew) was declined. The impugned order reads as follows:

> **Sub: Application of convict Raj Kishore s/o Ram Prakash seeking simultaneous release on furlough along with co-convict namely Dal Chand s/o Hari Singh (Nephew) in case FIR No. 179/2011, u/s 363/364A/120B/34 IPC, PS-Adarsh Nagar, Delhi.**
>
> **Ref: F.2/SCJ-2/CJ-2/AS(Furlough/Simultaneous)/2026/2031, dated: 10.09.2026.**
>
> This is in reference to application filed by above said convict on the subject cited above.
>
> In this regard, it is to inform you that the request of above said convict was considered by the Competent Authority and same has been **declined** in view of following reason(s):
>
> 1. As per the provision of para-1224 Note(1) of Delhi Prison Rules-2018 the request for simultaneous furlough to co-accused convicts are ordinarily not permissible. However, when co-accused convicts are family members, simultaneous release may be consider in exceptional circumstances only. But, the co-convicts of above said prisoners do not cover under blood relation.
>
> This is for your kind information & necessary action and the said convict may also be informed accordingly.

4. Prior thereto, the petitioner was sanctioned to be released on first (1st) spell of furlough by DS-Legal, Prisons Headquarters, Tihar, *vide* order No. F.10(3554984)/CJ/Legal/PHQ/2026/6230, dated 13.08.2026, on several conditions. The petitioner seeks release on furlough on the basis of this order

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18:32:42

(13.08.2026). The same reads as follows:

Sub: Regarding grant 1st spell of Furlough of current conviction year to convict Raj Kishore s/o Sh. Ram Prakash presently confined in Jail No. 2 in case FIR No. 179/2011, U/s 363/364A/120B/34 IPC, PS – Adarsh Nagar, Delhi.

Ref: F.2/SCJ-2/CJ-2/AS(Furlough)/2026/1674 **dated 03.08.2026**

Sir,

This has reference to the application filed by convict Raj Kishore s/o Sh. Ram Prakash presently lodged in your jail, wherein he has requested to grant 1st spell of furlough for a period of Three weeks as per Delhi Prison Rules 2018.

In this regard, I am directed to inform that the Competent Authority (Prisons) has considered and pleased to grant 1st spell of Furlough to the above named convict for a period of Three Weeks from the date of his release subject to the following conditions :-

1. That he shall furnish **cash surety of Rs.10,000/-** (Rupees Ten Thousand Only) alongwith a personal bond in the like amount for his release on Furlough to the satisfaction of the Superintendent, Central Jail No.2, Tihar.
2. That he shall maintain peace and good behavior during his period of release on Furlough.
3. That he will remain at his residence during the period of his release on furlough and his ordinary place of residence shall be:-VPO Chakwan Khurd, PS -Basrehar, Distt - Etawa(UP).
4. That he shall report at least once in a week to Police Station under which his ordinary place of residence falls, during the period of his release on furlough.
5. That he shall surrender to the Superintendent, Central Jail No.2, Tihar, New Delhi on the expiry of his period of release on furlough.

You are further requested to forward the copy of this order to all concerned as mentioned below and also inform the date of release/surrender of the aforesaid convict to this office.

5. It is pertinent to note that the impugned order relies on Note (1) of Rule 1224 of the Delhi Prison Rules, 2018. The said Note (1) reads as follows:

*"Simultaneous furlough to co-accused convicts are **ordinarily** not*

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Signing Date:03.11.2026
18:32:42

permissible. ***However, when co-accused convicts are family members, simultaneous release may be considered in exceptional circumstances only****."*

6. The aforesaid rule, especially the note, came to be considered by the Division Bench of this Court in ***Sandeep v. State (NCT of Delhi),*** **2026 SCC OnLine Del 2050**, wherein it was observed as under:

"*31.* ***Applying the above principles, in case NOTE:-(2) of Rule 1212 and NOTE:-(1) of the Rule 1224 are to be read as completely prohibiting simultaneous parole/furlough being granted to co-accused persons, it may defeat the very object for which the provisions of parole and furlough have been introduced****. As explained by the learned counsels for the petitioners, and not seriously disputed by the learned counsels for the respondents, in the present petitions itself, there can be a grave possibility that the petitioners would not get an opportunity to be released on furlough for years together as one or the other co-accused may have been released on parole or furlough at the same time.*

32. ***The said provisions, therefore, advisedly use the expression "ordinarily", which in itself implies that while there is discretion to grant of simultaneous parole/furlough to a co-accused, "ordinarily" it is not permissible. Therefore, while there is no complete embargo on the competent authority to grant simultaneous parole/furlough to co-accused persons, however, ordinarily the competent authority should ensure that simultaneous parole/furlough is not granted to co-accused persons****.*

33. ***Grant of parole being for specific reasons, in case such reasons are being made out by the co-accused, parole can be granted simultaneously to the co-accused****. Similarly, in case there are large number of co-accused and it is otherwise not possible to grant furlough to such co-accused at different times, the furlough can be granted to co-accused simultaneously.*

***

36. ***In view of the above, we dispose of these petitions by clarifying that there is no prohibition in the competent authority granting simultaneous parole/furlough to co-accused, however, the same is restricted and the competent authority while considering such***

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18:32:42

> ***application would examine the same more strictly in accordance with the Rules and keeping in view the competing objectives as have been explained by us hereinabove.*** *The challenge laid by the petitioners to the above Rules, therefore, has no merit.*"
>
> (emphasis supplied)

7. The Division Bench in ***Sandeep (supra)*** also noted the following, while laying down the test that needs to be followed by the prison authorities while applying the rule in question:

> "*34. In considering the application for parole/furlough, the competent authority would keep in view,* ***apart from other relevant circumstances, whether grant of simultaneous parole/furlough to co-accused is a threat of them combining together to commit fresh crime or threaten witnesses or victims or such other like relevant circumstances. The competent authority may also examine whether any such threat can be averted by imposing conditions on such co-accused.***"

8. Thus, the Division Bench, while upholding the validity of the rule in question, held that the word "*ordinarily*" implies discretion and imposes no complete embargo. It is further held that in considering the simultaneous release, the competent prisons authority has to examine whether such release poses the threat of co-accused combining together to commit a fresh crime, or threaten witnesses or victims, and whether any such threat can be averted by imposing conditions on such co-accused.

9. It is further made clear by the Division Bench that the reference to "*family members*" highlights only one situation in which simultaneous release may be granted. The purport of the rule is only to restrict and not prohibit the simultaneous grant of parole/ furlough to the co-accused. The observations with effect to this in ***Sandeep (supra)*** are reproduced hereinbelow:

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Signing Date:03.11.2026
18:32:42

> "*35. As far as the mention in the Impugned Rules of the grant of simultaneous parole/furlough to co-accused who are family members, the same is only to highlight one such condition where simultaneous parole/furlough can be granted to co-accused, that is, where they are family members. Mere mention of this exception, however, cannot curtail the general permissible provisions contained in the Impugned Rules. The Impugned Rules are only to restrict and not prohibit the simultaneous grant of parole/furlough to the co-accused.*"

10. It is noticed that the impugned order contains only a single reason, after paraphrasing Note (1) of Rule 1224 of the Delhi Prison Rules, 2018. The reason provided thereunder is: "*But, the co-convicts of the above said prisoners do not cover blood relation*". It records no finding as to whether the petitioner and Dal Chand are family members within the meaning of the rule in question, as the rule does not prescribe 'blood relation' as the test for qualifying as "*family members*". The only reference to the relationship between the petitioner and Dal Chand is in the subject line of the impugned order, wherein Dal Chand is mentioned as the nephew of the petitioner. However, the order, nonetheless, does not provide any reason as to whether the nephew can be considered a family member.

11. Further, the impugned order considers the absence of blood relation as conclusive, and does not exercise the discretion that the word "ordinarily" vests. To elucidate, it does not consider whether the simultaneous release of two co-convicts (here, the petitioner and Dal Chand) poses any threat of their combining together to commit a fresh crime or threatening witnesses or the victim or whether any such threat can be averted by imposing conditions on such co-accused. Therefore, tested on the principles laid out in ***Sandeep (supra)***, the impugned order cannot be sustained.

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18:32:42

12. It is also pertinent to note that the competent authority had itself found the petitioner fit for release on furlough on 13.08.2026 and the petitioner's record is relevant to that assessment. It is noticed that the petitioner has been released on parole/interim bail/furlough twelve (12) times since 2017; the details of the same are as under:

PAROLE/ INTERIM BAIL/FURLOUGH	
1. INTERIM BAIL: 08.03.2017 TO 07.05.2017 (02 MONTHS BY DHC)	4. FURLOUGH: 05.11.2023 TO 26.11.2023 (03 WEEKS BY DG(P)
2. EMERGENCY PAROLE: 22.04.2020 TO 17.06.2020 (08 WEEKS BY DG(P). THEREAFTER EXTENDED TIME TO TIME TILL 10.02.2021. BUT 04 DAYS LATE SURRENDER ON 15.05.2021.	5. FURLOUGH: 18.03.2024 TO 01.04.2024 (02 WEEKS BY DG(P)
3. EMERGENCY PAROLE: 16.05.2021 TO 14.08.2021 (90 DAYS BY GNCT). THEREAFTER EXTENDED TIME TO TIME TILL 08.04.2023.	6. FURLOUGH: 10.06.2024 TO 24.06.2024 (02 WEEKS BY DG(P)
	7. FURLOUGH: 28.11.2024 TO 19.12.2024 (03 WEEKS BY DG(P)
	8. FURLOUGH: 10.03.2025 TO 24.03.2025 (02 WEEKS BY DG(P)
	9. FURLOUGH: 27.06.2025 TO 11.07.2025 (02 WEEKS BY DG(P)
	10. FURLOUGH: 10.11.2025 TO 01.12.2025 (03 WEEKS BY DG(P)
	11. FURLOUGH: 05.02.2026 TO 19.02.2026 (02 WEEKS BY DG(P)
	12. FURLOUGH: 02.06.2026 TO 16.06.2026 (02 WEEKS BY DG(P)

13. Considering that furlough already stands sanctioned, remanding the matter to the concerned Authority would only delay the matter further. Consequently, the impugned order is set aside. It is further directed that the petitioner shall be released on furlough within a period of two (2) days for three (3) weeks from the date of release on the same terms and conditions as set out in the order No. F.10(3554984)/CJ/Legal/PHQ/2026/6230, dated 13.08.2026 (reproduced hereinabove). In addition, the petitioner shall not meet or stay with any co-convict, including Dal Chand, during the furlough.

14. The petitioner shall surrender before the concerned Jail Superintendent on expiry of the furlough. Any breach shall be taken into account in his future application/s.

15. The petition is disposed of in the above terms.

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Signing Date:03.11.2026
18:32:42

16. Let a copy of this order be sent to the concerned Jail Superintendent for compliance.

17. Order ***Dasti***.

SACHIN DATTA, J

NOVEMBER 3, 2026/*uk/vk*

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