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

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Date of Decision: 23.07.2025

+ **W.P.(CRL) 1277/2025**

MAHENDER

.....Petitioner

Through: Mr. Siddharth Yadav, Advocate

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC for the
State with Insp. Mahesh Kumar and
SI Yogesh Sharma, PS Subhas Place

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (O R A L)

1. The petitioner has assailed order dated 16.01.2025 of the competent authority whereby his application for release on parole for a period of 60 days was dismissed. The petitioner also seeks grant of parole for 60 days after setting aside the impugned order. The petition is strongly opposed by the State, referring to the nominal rolls and the impugned order. I heard learned counsel for petitioner and learned ASC for the State.

2. Broadly speaking, the parole application of the petitioner was dismissed by the competent authority on three grounds. Firstly, the petitioner was awarded a major punishment dated 17.01.2023, so in view of Rule 1210(II) of Delhi Prisons Rules, effect of that major punishment would continue till 16.01.2025, prior to which the parole application was filed.



Secondly, the petitioner violated the conditions of emergency parole granted earlier, so vide Rule 1210(IV) of the Delhi Prisons Rules, he cannot be granted parole. Thirdly, since the petitioner did not surrender within time after his release on previous parole, in view of Rule 1211(III) of the Delhi Prisons Rules, he is not entitled to parole.

3. The misconduct alleged related to the above mentioned three grounds is that the petitioner was released on emergency parole during Covid period, which parole was extended from time to time till 21.03.2021 but petitioner surrendered much belatedly on 17.01.2023. It is for this misconduct that a major punishment was awarded to him. It is this misconduct that is stated to be the violation of previous parole. And it is this misconduct that is stated to be violation of Rule 1211(III) of the Delhi Prisons Rules.

4. Learned counsel for petitioner submits that till date the major punishment dated 17.01.2023 has not been challenged by the petitioner. That being so, in view of Rule 1210(II) of the Delhi Prisons Rules, any application for grant of parole till 16.01.2025 would be obstructed by the said major punishment. In the present case, neither side is aware about the exact date of the parole application, but the impugned order being dated 16.01.2025, it is obvious that the parole application would have been filed prior to 16.01.2025. Therefore, on this count, the impugned order cannot be faulted with.

5. The emergency parole, violation whereof is taken as a ground by the



State to oppose this petition was granted during extraordinary times of Covid pandemic. If on account of apprehensions or unawareness or any other such reasons the prisoner on parole or furlough delayed her/his surrender, that should not in itself be a ground to deny him access to these reformatory tools forever in future.

6. But in the present case, an unchallenged punishment stares in the face.

7. Considering the above circumstances, especially that as on date, the obstructive impact of the above mentioned major punishment has ceased to exist so far as Rule 1210(II) of Delhi Prisons Rules, the present petition is disposed of directing the competent authority to treat the present petition as a fresh application for grant of parole without being influenced by the delayed surrender of the petitioner after the Covid period emergency parole. The present petition as an application for parole shall be disposed of by the competent authority within four weeks from today and thereafter within one week, the decision shall be conveyed to the petitioner.

8. For compliance, a copy of this order along with copy of this petition be sent to the concerned Jail Superintendent.

**GIRISH KATHPALIA
(JUDGE)**

JULY 23, 2025/rs