



2025:DHC:8531



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 24.09.2025*+ **W.P. (CRL.) 1563/2025****JITENDER @ KALLA**

.....Petitioner

Through: Ms. Neha Kapoor and Mr. Kaushal Mehta, Advocates Mr. Ahanthem Henry with Mr. Ahantham Rohen Singh and Mr. Aniket Rajput, Advocates (intervener)

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC (CrI) for the State along with SI Sanjeeta, PS : Mukherjee Nagar

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J****CRL.M.A. 20816/2025 (permission to intervene)**

1. The above-captioned petition under Article 226 of the Constitution of India was preferred by the petitioner seeking quashing of order No. F.10(3670839)/CJ/LEGAL/PHQ/2024/6774 dated 01.10.2024, passed by the Respondent, and for issuance of directions to the Respondent to release the petitioner on the first spell of furlough for a period of three weeks. The said petition was allowed



and disposed of *vide* judgment dated 08.07.2025, whereby the petitioner was granted furlough for a period of three weeks.

2. The present application has now been filed by the original complainant in the FIR registered against the petitioner for commission of the offence of murder. The complainant seeks permission to intervene in the case and place certain documents on record, in order to file an application for recall of order dated 08.07.2025 passed by this Court.

3. The genesis of the matter lies in two FIRs – FIR No. 67/1999, registered under Sections 302/307 of IPC at P.S. Keshav Puram, Delhi; and FIR No. 68/1999, registered under Sections 302/120B of IPC at P.S. Mukherjee Nagar, Delhi. The first pertained to a murder, and the second to the subsequent murder of the father of a witness to the earlier incident. The trials in both FIRs culminated in the conviction of the petitioner Jitender *vide* judgments and orders on sentence dated 17.03.2010. The petitioner assailed the said judgments and orders by way of Criminal Appeals No. 666/2010 and 667/2010, wherein this Court directed a re-trial. After the re-trial, the petitioner was again convicted by the learned Trial Court *vide* judgments and orders on sentence dated 01.07.2013. In FIR No. 67/1999, P.S. Keshav Puram, he was sentenced to rigorous imprisonment for life (not to be considered for remission until completion of 30 years of actual incarceration) for the offence under Section 302 of IPC, and rigorous imprisonment for 10 years for the offence under Section 307 of IPC. In FIR No. 68/1999, P.S. Mukherjee Nagar, he was sentenced



to rigorous imprisonment for life (for the remainder of his natural life) for the offence under Section 302 IPC. The petitioner preferred appeals against these orders, being Criminal Appeals No. 966/2013 and 967/2013, wherein while the conviction was upheld, the embargo of no remission till 30 years was removed, and he was directed to be released on the period already undergone. However, when the petitioner further assailed his conviction by way of Criminal Appeal No. 2133 of 2017 before the Hon'ble Supreme Court, the directions of this Court were set aside, and the orders of the learned Trial Court were restored, including the condition that the petitioner shall not be entitled to seek remission until completion of 30 years of rigorous imprisonment. It was further directed that the sentences awarded in both cases shall run concurrently.

4. Subsequently, the petitioner instituted W.P.(CRL.) 185/2024 seeking parole for two months. During the pendency of the said petition, the petitioner was granted furlough for two weeks vide order dated 26.02.2024 by the competent authority. Accordingly, the writ petition was dismissed as withdrawn *vide* order dated 29.02.2024.

5. As per the convict release slip, the petitioner was released on 14.03.2024 and was required to surrender on 29.03.2024. The relevant portion of the release slip reads as under:

“It is to certify that convict Jitender @ Kalla S/o Samay Singh who is undergoing Life Imprisonment awarded to him in Case FIR No. 67/1999 & 68/1999 has been released from Central Jail no. 04, Tihar, New Delhi on 14.03.2024 on Furlough for 02 weeks granted by the DG (P) vide order F. 10



(3670839)/CJ/Legal/PHQ/2024/13443 and he has to surrender on 29.03.2024.”

6. In the meanwhile, the petitioner approached the Hon’ble Supreme Court by way of SLP (Crl.) No. 4299/2024 on 18.03.2024, assailing an order dated 08.01.2024 passed by this Court in an unconnected matter relating to one Rani, who was serving a life sentence and had applied for premature release. The said SLP of the petitioner was listed along with the case of Rani, and *vide* order dated 19.03.2024, all the petitioners including the present petitioner were exempted from surrendering, as they were already on furlough. However, it is pertinent to note that the petitioner had obtained such an order by concealing from the Hon’ble Supreme Court the material fact that his sentence carried a specific stipulation that remission could not be considered until completion of 30 years of actual incarceration, and that it was not a case of a simple life sentence.

7. This concealment came to light when the family of the victim in the present FIR filed I.A. No. 104250/2024 and I.A. No. 105406/2024 in SLP (Crl.) No. 4299/2024, seeking recall of the order dated 19.03.2024 and their impleadment in the proceedings. These applications were listed for hearing on 13.05.2024. However, before the same could be heard, the petitioner, assisted by his counsel and without notice to the other side, withdrew the said SLP on 09.05.2024 on the ground that his counsel was not aware whether the application made by the petitioner for grant of permanent remission had been rejected. The withdrawal was permitted by the Hon’ble



Supreme Court, which granted the petitioner three weeks' time to surrender.

8. Thereafter, the family of the victim filed M.A. No. 986/2024 seeking recall of the order dated 09.05.2024. Upon being apprised of the aforesaid concealment and fraud, the Hon'ble Supreme Court, *vide* order dated 17.05.2024, recalled its earlier order dated 09.05.2024 and directed the petitioner to surrender immediately. The petitioner, however, surrendered only on 30.05.2024, attributing the delay to lack of communication by his counsel.

9. Subsequently, the Hon'ble Supreme Court, *vide* order dated 14.08.2024, restored SLP (Crl.) No. 4299/2024. Thereafter, on 13.11.2024, the petitioner filed I.A. No. 261213/2024 in the said SLP, seeking quashing of rejection order No. F.10(3670839)/CJ/Legal/PHQ/2024/6774 dated 01.10.2024 passed by DS (Legal), PHQ, Delhi Prisons, and prayed for grant of furlough.

10. It is the case of the applicant/intervenor that I.A. No. 261213/2024, challenging the said order of rejection of furlough, was dismissed by the Hon'ble Supreme Court *vide* order dated 20.02.2025. Notwithstanding the same, the petitioner instituted the above-captioned writ petition, i.e., W.P.(Crl.) 1563/2025, before this Court on 08.07.2025, once again challenging the very same rejection order dated 01.10.2024, which had already been assailed before the Hon'ble Supreme Court. It is alleged that, by such misrepresentation



and suppression of material facts, the petitioner succeeded in obtaining a favourable order dated 08.07.2025 granting him furlough.

11. During the course of arguments, learned counsel for the applicant/intervenor, i.e., the family of the victim, contended that the order dated 01.10.2024 passed by DS (Legal), PHQ, Delhi Prisons, having already been challenged before the Hon'ble Supreme Court and dismissed on 20.02.2025, could not have been re-agitated before this Court. It was argued that the petitioner and his counsel deliberately suppressed this fact and falsely averred in the present writ petition that no such challenge had been made before the Hon'ble Supreme Court or any other Court. It was submitted that the petitioner thereby misled this Court and obtained the order dated 08.07.2025 by fraud and misrepresentation.

12. On the other hand, learned counsel for the petitioner contended that the averments made in the present application are misleading, as the Hon'ble Supreme Court had, in paragraph 48 of its order dated 20.02.2025, expressly granted liberty to the petitioner to avail remedies as per law, and had disposed of the pending applications including I.A. No. 261213/2024 without adjudicating upon the challenge to the order dated 01.10.2024 rejecting furlough.

13. At this stage, this Court does not consider it appropriate to finally adjudicate upon the issue as to what was conclusively decided by the Hon'ble Supreme Court in respect of the challenge to the rejection of furlough order dated 01.10.2024, while passing its order



dated 20.02.2025. However, what is clearly evident from the record is that in the present writ petition filed before this Court, the petitioner did not make a full disclosure of material facts. In particular, the petitioner had failed to disclose that the very order which was being impugned before this Court had already been assailed before the Hon'ble Supreme Court by way of I.A. No. 261213/2024 in SLP (Crl.) No. 4299/2024. Rather, it was mentioned in the petition that no other petition seeking similar relief was filed or pending either before this Court or Hon'ble Supreme Court.

14. This Court is further of the considered view that this is not the first instance where the petitioner has been found to have suppressed or concealed relevant facts. As discussed in the preceding part of this order, the Hon'ble Supreme Court itself had taken note of similar concealment on the part of the petitioner while dealing with his SLP. Such conduct, whereby material facts are selectively disclosed and adverse facts concealed, *prima facie* amounts to misleading the Court and goes against the principle that litigants must approach the Court with clean hands.

15. Thus, considering the overall facts and circumstances of the case, the applicant/intervenor is permitted to be impleaded in this case. He shall be at liberty to file an application seeking recall of the order dated 08.07.2025, which shall be decided on its own merits after hearing arguments of both sides.



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16. The present application is accordingly allowed and disposed of.
17. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 24, 2025/A