

IN THE HIGH COURT OF BOMBAY AT GOA.

Criminal Writ Petition No. 40/2015

Sanzad Haider Ali,
Prisoner, presently lodged in
Central Jail Aguada, Aguada Goa. .. **Petitioner**

Versus

- 1] State of Goa,
Through, Chief Secretary,
Alto, Porvorim, Goa.
- 2] The Inspector General of Prisons,
Collectorate, North Goa, Panaji Goa.
- 3] The Superintendent of Prisons,
Central Jail Aguada Goa.
- 4] The Superintendent of Police,
Gaya, BIHAR ... **Respondents**

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Ms. Asha Desai, Advocate for the petitioner.
Mr. Mahesh Amonkar, Additional Public Prosecutor for the
respondents.

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CORAM : F.M.REIS & K.L. WADANE, JJ.

Date : 21st September, 2015.

ORAL JUDGMENT: (Per K.L. WADANE, J.)

1. Heard Ms. Asha A. Desai, learned Advocate appearing
for the petitioner and Mr. Mahesh Amonkar, learned
Additional Government Advocate appearing for the
respondents.

2. Rule. Rule made returnable forthwith. Heard by the consent of the parties. The learned Additional Government Advocate appearing for the respondents waives notice on behalf of the respondents.

3. This writ petition is filed by the petitioner seeking to quash and set aside the order dated 19.2.2015 passed by the respondent no.2 on the application of the petitioner for furlough.

4. The brief facts of the case, may be stated, as follows:-

The petitioner was charge-sheeted and convicted for the offences punishable under Sections 120-B, 342, 449, 394, 364-A read with Section 34 of the Indian Penal Code and Section 8(1A) of the Goa Children's Act, 2003 read with Section 34 of the Indian Penal Code and sentenced to suffer imprisonment for life and to pay fine of Rs. 56,000/- and as on the date of this petition, he had undergone seven years, one month and 16 days of the imprisonment.

5. The petitioner applied for parole on the ground of illness of his father. However, his petition was rejected by

the respondent no.2 on 4/2/2004 on the ground that he did not receive police inquiry report despite the reminders being sent to the concerned police.

6. The petitioner submitted an application for furlough which has also been rejected by the respondent no.2 on 30.7.2014 on the same ground that the respondents-authorities had not received the police inquiry report. Again, the petitioner moved the respondent no.2 by filing second application for furlough. It was also rejected by the respondent no.2 on 19.2.2015 by the impugned order. The same was also rejected on the same ground that the respondent-authorities have not received the police inquiry report.

7. It is contended by the petitioner that his brother co-accused in the same crime is also undergoing imprisonment in the same prison and recently he has been granted furlough. A copy of the same is also placed on record. On perusal of the same, it appears that the respondent no.2, by its order dated 28.5.2014 and in the exercise of the powers conferred under Article 3.09 of Goa Prisons Rules,

2006, co-accused namely Jasimuddin alias Jasim Alam has granted furlough, who is stated to be from the same village.

8. Ms. Asha A. Desai, the learned Advocate appearing for the petitioner has submitted that the application of the petitioner for furlough has been rejected as the concerned Police Authorities failed to submit its report for which no blame could be given to the petitioner.

9. Looking to the reasons recorded by the respondent no.2 while rejecting the petition, it appears that on such ground the petition of the petitioner could not have been rejected. If the concerned Police Authorities were failed to comply with the directions and submit the report, then it is for the respondent no.2 to secure such report even by taking coercive steps permissible under law. But the petition for furlough cannot be rejected on the sole ground that the concerned Police have failed to submit its report in spite of repeated reminders. Therefore, we, find that the impugned order dated 19.2.2015 is not passed on merit.

10. Therefore, we find it appropriate to quash and set

aside the order dated 19.2.2015. We direct the respondent no.2 to dispose of the petition of the petitioner for furlough within a period of two months from the date of receipt of the copy of this order.

11. Rule is made absolute in the above terms with no order as to costs.

K.L.WADANE, J

F.M. REIS, J

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