

IN THE HIGH COURT OF BOMBAY AT GOA.

Criminal Writ Petition No. 80/2015

1. MISS. KOMAL SINGH,
major of age, Indian,
resident of L.S. 245,
Sai Sneha Housing Society,
New Pundalik Nagar,
Alto Porvorim, Bardez, Goa.

2. MRS. MAHAMATI SINGH,
major of Age, Indian,
Sai Sneha Housing Society,
New Pundalik Nagar,
Alto Porvorim, Bardez, Goa.

Versus

THE STATE OF GOA,
through Inspector General, Prisons
Government of Goa,
Collectorate Building
Panaji, Goa.

Respondent

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Mr. Ryan DA Piedade Menezes, Advocate for the petitioners.
Mr. D.Lawande, Additional Public Prosecutor for the respondent.

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CORAM : F.M. REIS & K.L. WADANE, JJ.
DATE : 28th July, 2015.

ORAL JUDGMENT:

1] Heard Mr. Ryan DA Piedade Menezes, learned Advocate for the petitioners and Mr. D. Lawande, learned Public Prosecutor for the respondent.

2] Rule. Rule returnable forthwith. By consent, heard forth.
The learned Public Prosecutor waives notice on behalf of the

respondent.

3] The petitioners have filed this writ petition seeking to quash and set aside the order passed by the respondent dated 27th May, 2015, by which, parole of 30 days is denied to a convict - Rajendra Singh, who is the brother of the petitioner no.1 and the son of petitioner no.2.

4] Convict - Rajendra Singh (Prisoner No.11/2007) is currently undergoing sentence of life imprisonment at the Central Jail, Aguada and he has served a period of more than ten years.

5] On 7th February, 2014, the petitioner no.1 met with an accident and sustained grievous injury i.e. compound fracture of the 4th and 5th metatarsals of the right foot.

6] The consequences of the aforesaid accident, the concerned Doctor advised surgery. Accordingly, the proposed surgery was to be held on 22.1.2015, however, any how, it was postponed and the doctor further advised reconstructive surgery. Accordingly, the petitioner no.1 underwent such surgery on 17th March, 2015.

7] The petitioner no.1 resides at Porvorim along with her

mother, aged about 51 years, and nephew, aged about 10 years. The said persons on account of age and/or physical constraints are not in a position to provide assistance, attendance or care that was required by the petitioner no.1.

8] The petitioner no.1 is substantially dependent on the care and attendance and that only assistance of her brother to attend to her undergo treatment properly and there being no person available who can fulfill such a role and to provide care. So, the petitioners have prayed to release the convict on parole for 30 days on the ground of sickness of the petitioner no.1.

9] The petition is opposed by the learned Additional Public Prosecution on the ground that after the accident and surgery of the petitioner no.1, too much time has been elapsed and by this time, the petitioner no.1 must have recovered from the injuries.

10] **Rule 324 of Goa Prison Rules, 2006** lays down as under:

“324. When parole to be granted – Parole may be granted to a prisoner in the event of emergent situations like death or serious illness of father, mother, brother, sister, spouse and children and also marriage of brother, sister and children or for any other sufficient cause.”

11] Thus, according to the amended Rule, parole can be

granted to a prisoner, *inter alia*, for any sufficient cause and even for marriage of relatives mentioned therein. The provision does not specifically states that the emergent situation of a serious illness is that which is likely to result into the death. There is no rule that once furlough is granted, no parole can be granted within 30 days from the date of return from furlough. One cannot know as to when emergent situation would arise.

12] In the light of the above provision, it is necessary to refer the medical certificate dated 12.12.2014 issued by the concerned Doctor, from which, it is seen that the petitioner no.1 underwent a surgery on 07th February, 2014 followed by physiotherapy for a period of 30 days with no weight bearing. Another medical certificate is produced on record dated 20th April, 2015 issued by the same Dr. Anil Rane, in which it is mentioned that the petitioner no.1 undergone reconstructive surgery of the Mal-union of the 3rd & 4th Metatarsal bones of her right foot. The patient is advised to take complete bed-rest for 60 days with regular follow-up and alternate days dressing to prevent further complications. It is further mentioned that the patient compulsorily requires help of an attendant to take care of her and the patient is under observation and the medical treatment.

13] From the above documents, it reveals that the petitioner

no.1 received grievous injury and under medical treatment and requires assistance from others. From the perusal of the record, it is seen that there is no major male member in the family of the petitioners.

14] When the petition for parole was pending before respondent, it call the report from the concern Police. From the report dated 18th May, 2015 by the Superintendent of Police, North Goa, it is seen that the concerned Officer has reported that the reasons quoted by the petitioners are verified and found to be genuine. So, from the report, one thing is absolutely clear that the contents of the application before the respondent were correct and verified by the concerned Police Officer.

The application for parole before the respondent was opposed on the ground that the prisoner is undergoing imprisonment in the Central Jail in a murder case and if the prisoner is released on parole, there is every possibility that he may create problem to the family members of the victim and witnesses, who had deposed against him.

15] Looking to the grounds mentioned by the concerned Police Officer while opposing the petition, we are of the opinion that it

is not a good ground to refuse the parole because earlier the prisoner was released on parole/furlough for 4-5 times and during that period, no such incident is reported to the police nor the relatives of the victim or witnesses complained against the prisoner. Therefore, admittedly, there are no complaints of having violated any condition of the furlough or parole by the convict.

16] Considering the medical certificates produced by the petitioners and the statements made in the petition, as also considering the affidavit-in-reply filed by the respondent, we are of the opinion that the prisoner's brother/son should be released on parole.

17] In the result, the petition is allowed. The parole of 30 days shall be granted to the convict Shri Rajendra Singh. For that purpose, the said prisoner shall be released on furnishing a bail bond in the sum of Rs. 25,000/- with one surety or two sureties in the like amount, and subject to other conditions to be imposed as per the Rules.

18] Rule is made absolute in the aforesaid terms. The petition stands disposed of accordingly.

19] Parties to act on duly authenticated copy of the judgment.

K.L.WADANE, J

F.M.REIS, J.

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