

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.174 OF 2015

Shri Rajasab Mujawar,
major, Indian national,
Convict Prisoner No.71/11,
currently in custody at
Central Jail, Colvale,
Colvale, Goa

.. Petitioner

Versus

Inspector General of Prisons,
Government of Goa,
Office of the I. G. Prisons,
Collectorate North,
Panaji Goa.

.. Respondent

Mr. Ryan Menezes, Advocate for the petitioner.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the respondent.

CORAM :- F. M. REIS, &
C. V. BHADANG, JJ.

DATE : 16th December, 2015

ORAL JUDGMENT : (Per C. V. Bhadang J.)

Rule. Rule made returnable forthwith. The learned Additional Public Prosecutor waives service for the respondent. Heard finally by consent of the parties.

2. By this petition, the petitioner is challenging the order dated 15/07/2015 and the order dated 28/07/2015, by which, the first respondent has refused to release the petitioner on furlough.

3. On hearing the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondent, it appears that the prayer is rejected only on the ground of an adverse report from the Superintendent of Police, Dharwad dated 06/07/2015. It is reported by the Superintendent of Police, Dharwad that the petitioner and his family do not belong to Kundagol town. Their native place is Mittlekod village, Taluka Kushtagi, District Koppal and at present the relatives of the petitioner are residing at Kundagol in rented house and working as coolie. The report further says that in such circumstances, if released, there is a possibility of breach of peace and also the petitioner absconding.

4. During the course of hearing, it was not disputed on behalf of the respondent that when the petitioner was released on furlough on the previous occasions, there was no incident of any breach of peace or the petitioner had ever overstayed the period of furlough or was required to be arrested. In that view of the matter and in the absence of objective circumstances and the material, we do not find that merely on the basis of possibility of breach of peace and of abscondance, the furlough can be refused to the petitioner. The petitioner, in our view, can be put to appropriate conditions.

5. In such circumstances, the following order is passed :

ORDER

- (i) The petition is allowed.
- (ii) The petitioner shall be released on furlough as per rules, on executing a Personal Bond in the sum of Rs.10,000/-, with one or two sureties in the like amount.
- (iii) The petitioner shall furnish his address, where he would be staying during the period of his furlough along with proof.
- (iv) The petitioner shall report to the nearest Police Station immediately after reaching his residence and thereafter, once in a week, during the period of his release on furlough.
- (v) The petitioner shall undertake to surrender on expiration of the period of furlough.
- (vi) The petitioner shall maintain good behaviour.
- (vii) Rule is made absolute in the aforesaid terms, with no order as to costs.

SMA

C. V. BHADANG, J.

F. M. REIS, J.