

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 23 OF 2017

SHRI. KHAMBU KESAR RAWOL, LODGED
AT CENTRAL JAIL, COLVALE.,

... Applicant

Versus

INSPECTOR GENRAL OF PRISONS, GOVT.
OF GOA.,

... Respondent

Shri Ryan Da Piedade Menezes, Advocate under Legal Aid
Scheme for the Applicant.

Shri S.R. Rivankar, Public Prosecutor for the Respondent.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 24th January, 2017

P.C.:

The petitioner challenges the order dated 18th November, 2016 passed by the respondent in an application under Section 482 of the Code of Criminal Procedure. The main thrust of his application was that the applicant as a convict prisoner undergoing the sentence of life imprisonment awarded by the Sessions Court, North Goa, Panaji had undergone the imprisonment of five years and his conduct in jail was recorded to be satisfactory. His family comprising of his sister, father, brother and nephew were available in Goa with whom he would spend the period of his release on furlough. The respondent had rejected his application for furlough by the impugned order on the premise that he would take advantage thereof and not

surrender to jail and accordingly rejected his request based on the Police Report to that effect by the order under challenge.

2. Shri R. Menezes, learned Advocate for the applicant contended that the applicant was in jail since the time of his arrest till the date of his conviction and continuing thereafter and that his behaviour and conduct in jail was certified to be satisfactory. He would be spending his time with his family, who were settled in Goa since the last five years and there was no reason not to give him the benefit of furlough as prayed for by him and for which necessary conditions could be imposed. Shri R.Menezes, learned Advocate for the applicant also submitted that Fr. Bryan Pinto, volunteer with the Prison Ministry had also consented to stand as a surety for the applicant at the time of his release on furlough and therefore he had to be given the said benefit considering his satisfactory conduct in the prison.

3. Shri S.R. Rivankar, learned Public Prosecutor on behalf of the respondent confirmed on the basis of the Police Report that the family of the applicant was residing in Goa since the last about five years and the apprehension expressed by the Police and accepted by the respondent about the applicant not reporting back to jail could be set at rest by imposing a condition that he should report to the Police Station at Saligao every alternate day.

4. There was no particular dispute or rather there was a fair concession by Shri S.R.Rivankar, learned Public Prosecutor on behalf of the State that the family of the applicant comprising of his sister, father, brother and nephew were residing in Goa since the last about five years as confirmed from the Police Report and that there was no serious objection to his release on furlough. Besides we have perused Rule 318 of the Goa Prisons Rules, 2016 which empowers the Sanctioning Authority to grant furlough to a prisoner subject to his executing a Personal Bond of giving cash security in the prescribed form and release being subject to the other conditions as enumerated therein. There was otherwise no rebuttal of the fact that Fr. Bryan Pinto, a volunteer with the Prison Ministry would act as Surety for the applicant on his release on furlough. Besides Shri Menezes in fairness conceded that he would furnish a sound security to the extent of Rs.25,000/- (Rupees Twenty five thousand only) being a local surety to secure the release of the applicant on furlough. The apprehension expressed by the respondent would be adequately met, if certain conditions are imposed on the release of the applicant on furlough. Besides it is a right vested in the applicant to get himself released on furlough.

5. We therefore find it appropriate to quash the impugned order rejecting the furlough application and direct the respondent to act appropriately on the basis of the order passed by this Court

in the matter of his release on furlough for the stated period and on a condition that he furnishes a local surety in the amount of Rs.25,000/- and report at the Saligao Police Station every alternate day apart from the other conditions, which may be imposed as deemed fit in the circumstances of the case.

6. The application stands disposed off accordingly in the above terms.

NUTAN D. SARDESSAI, J.
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F. M. REIS, J.