

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO.36 OF 2017**

Santan Antao Eugeno Rebelo
Prisoner No.93/2012,
Prsently serving sentence at
Central Jail, Colvale, Goa.

.... Petitioner

V/s

1. State of Goa,
Through the IG Prison,
old director of education
building Panaji, Goa,
PP High Court, Panaji, Goa.

2. PP, High Court.

.... Respondents

**Coram:- ANOOP V. MOHTA &
C. V. BHADANG, JJ.**

Date : 9th March, 2017

FINAL ORDER : (Per C.V. BHADANG, J.)

The petitioner is challenging order dated 27/01/2017 passed by the first respondent, rejecting the application filed by the petitioner seeking parole for carrying out agricultural operations in his field. The application has been rejected principally on the ground that Rule 324 of the Goa Prison Rules, 2006 (Rules, for short) does not contemplate release on parole on the ground of carrying out agricultural operations.

2. We have heard Shri T. George John, the learned Counsel for the

petitioner and Shri S.R. Rivankar, the learned Public Prosecutor for the respondents.

3. It is submitted by the learned Counsel for the petitioner that Rule 324 of the Rules apart from the reasons as mentioned in the said Rules also permits release of a prisoner on parole “for any other sufficient cause”. It is submitted that the need for carrying agricultural operations would come within the ambit of a sufficient cause entitling the petitioner to be released on parole. On behalf of the petitioner reliance is placed on the judgment of this Court in the case of ***Mrs. Cecelia Fernandes V/s. Inspector General, Prisons & Anr. (Criminal Writ Petition No.8/2017) decided on 19/01/2017*** in order to submit that Rule 324 of the Rules is illustrative and not exhaustive. Further reliance is placed on the decision of the Gujarat High Court in the case of ***Ramji Dana Koli V/s. State of Gujarat in Criminal Misc. Application (For Temporary Bail) No.15217 of 2015 in Criminal Appeal No.42 of 2009.***

4. On the contrary, it is submitted by the learned Public Prosecutor that Rule 324 of the Rules does not contemplate release of the petitioner on the ground of a need for carrying out agricultural operations. It is submitted that the phrase “for any other purpose” as used in Rule 324

has to be read in the context of the earlier part of the said Rule which necessitates that the parole can be granted to meet emergent situation. In other words, it is submitted that unless and until it is shown that there is any emergent situation, no parole could be granted. It is submitted that the judgment in the case of ***Mrs. Cecelia Fernandes*** (supra) is distinguishable as in that case parole was granted for own marriage of the prisoner. In so far as the judgment of the Gujarat High Court in the case of ***Ramji Dana Koli*** (supra) is concerned, it is submitted that it was a case claiming release on temporary bail and not on parole.

5. We have carefully considered the rival submissions and the submissions made. Rule 324 of the Rules, reads thus:

“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.”

It can thus be seen that basically parole can be granted to a prisoner to meet emergent situation 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. This Court in the case of ***Mrs. Cecelia Fernandes*** (supra) held that the expression in Rule

324 is illustrative and not exhaustive. In that case, the question was whether parole can be granted for the marriage of the prisoner, which in any event would come within the ambit of any other sufficient cause. Thus, in our view the case of *Mrs. Cecelia Fernadnes* (supra) turned on its own facts.

6. As noticed earlier, parole can be granted to meet emergent situation some of which are set out in the Rule itself. In our considered view, the expression “any other sufficient cause” has to be read in the context of the earlier part of the Rule and not bereft of it. Need to undertake agricultural operations is not set out as one of the reasons for grant of parole and we are unable to accept that such a ground or reason can be covered with the aid of the later part of the Rule where it says that parole can be granted for “any other sufficient cause”.

7. A perusal of the impugned order shows that the petitioner was earlier released on parole less than three months before. That apart once it is found that Rule 324 does not permit release of parole on the ground of carrying out of agricultural operations, we do not find that any exception can be taken to the impugned order.

8. The judgment in the case ***Ramji Dana Koli*** (supra) did not involve a claim for release on parole. That was a case where the petitioner had claimed release on temporary bail for the purposes of cultivating his agricultural land. Thus that case cannot come to the aid of the petitioner. In such circumstances, we do not find that any case for interference is made out. The petition is dismissed.

C. V. BHADANG, J.
NH

ANOOP V. MOHTA, J.