

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO.88 OF 2017

Shri Shailesh G. Gadekar,
Prisoner No.815/06,
Major of age,
Modern Central Jail, Colvale,
Colvale, Goa.

... Petitioner

Versus

1. State of Goa
Through the Chief Secretary,
Govt. of Goa,
Secretariat, Panaji, Goa.
2. Inspector General of Prisons,
Office at 1st Floor, Old Education Building,
Panaji, Goa.
3. The Superintendent,
Modern Central Jail,
Colvale, Goa.
4. The Advocate General,
The High Court of Bombay at Goa
Panaji- Goa.

... Respondents.

Ms. D. Tulkar, Advocate for the petitioner.

Shri P. Faldessai, Additional Public Prosecutor for the State.

**CORAM : F. M. REIS &
NUTAN D. SARDESSAI, JJ**

DATE : 5th June, 2017.

ORAL JUDGMENT : (Per NUTAN D. SARDESSAI, J.)

Heard Ms. D. Tulkar, learned Advocate for the petitioner and
Shri P. Faldessai, learned Additional Public Prosecutor for the State.

2. Rule.

3. Heard forthwith with the consent of the learned Advocate appearing for the respective parties. Shri P. Faldessai, learned Additional Public Prosecutor waives service for the State.

4. Ms. Tulkar, learned Counsel for the petitioner contended that the petitioner had applied for the grant of parole which was rejected by the respondent no.2 by the impugned order dated 12/04/2017 on the ground that the local police had not recommended his application and as such the application could not be considered favourably. The petitioner was aggrieved by the said order which was unreasonable, irrational and unjustified and was therefore seeking the benefit of parole by invoking the jurisdiction of this Court.

5. Shri P. Faldessai, learned Additional Public Prosecutor submitted that the petitioner had indulged in suppression inasmuch as he had availed furlough for a period of 118 days in the last one year on one ground or the other and therefore he was not entitled to be enlarged on parole for such long intervals. The respondent no.2 had rightly exercised his jurisdiction and denied the benefit of parole to him.

6. We have heard Ms. Tulkar, learned Advocate for the petitioner and Shri P. Faldessai, learned Additional Public Prosecutor for the respondents no.1 and 2.

7. There was no particular rebuttal of the fact that the petitioner was convicted for the offence under Sections 302, 342, 364 120-B r/w 34 I.P.C. and undergoing the sentence of imprisonment for life. There was also no particular dispute that he had availed parole over a period of 118 days in the last one year and that the respondent no.2 had considered the application and the Police Report and taken a decision to decline the benefit of parole to the applicant. The ground urged on behalf of the applicant for parole was that of his mother's illness. The respondent no.2 had considered the Police Report and from which it was borne out that his mother was sick and under treatment. The Medical Certificate relied upon by the petitioner dated 11/01/2017 was to the effect that she had an acute attack of vertigo and she was suffering from heart disease and advised rest. The respondent no.2 had properly appreciated the Police Report and considering that he had availed parole for 118 days in the past one year had considered it appropriate not to give him further benefit of parole and as there was a likelihood of misuse and resulting in a mockery of justice.

8. We, therefore, do not find it appropriate to interfere with the discretion exercised by the respondent no.2 rejecting the benefit of parole to the applicant and in the circumstances pass the following

O R D E R

- (i) Rule is discharged. The petition is dismissed .
- (ii) Liberty is granted to the petitioner to move the respondent no.2 for such or similar relief in the course of time and which the respondent no.2 shall consider on its own merits.

NUTAN D. SARDESSAI,J.

F. M. REIS,J.

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