

IN THE HIGH COURT OF BOMBAY AT GOA.**CRIMINAL WRIT PETITION NO. 119 OF 2017.**

Rajesh Mishra @ Mitra,
son of Balkisun Mishra,
major of age, service,
permanent resident of village:
Khabhuva, P. S. Kamdara,
Rampur, Gumla, Jharkhand
(currently in custody at Central
Jail, Colvale, through his next
friend Savita Mukesh Mishra,
major of age, service,
c/o Albert, r/o H. No.78,
Consua, Pirni, Verna, Goa)

...Petitioner.

Versus

Inspector General of Prisons,
Inspectorate General, Prisons,
1st Floor, Old Education Bldg.,
18th June Road, Panaji, Goa.

... Respondent.

**Coram:-C. V. BHADANG &
PRITHVIRAJ K. CHAVAN,JJ.**

Date :-14th July, 2017.

Mr. R. Menezes, Advocate for the petitioner.

Mr. M. Amonkar, Addl. Public Prosecutor for the respondent.

JUDGMENT (Per C. V. BHADANG, J)

Rule, made returnable forthwith. Mr. Amonkar, learned
Addl. Public Prosecutor waives service. Heard finally by consent of
the parties.

2. The petitioner is seeking modification of the order dated

12.4.2017 passed by the respondent whereby the petitioner is directed to be released on furlough for 21 days, on certain conditions, including furnishing of a bond in the sum of ₹40,000/- (Rupees forty thousand only). On account of the fact that the petitioner hails from Jarkhand and this is the first occasion on which the petitioner is being released on furlough, the respondent has thought it fit to impose a condition of daily attendance to the nearest police station.

3. The learned Counsel for the petitioner submits that the petitioner is unable to furnish a bond in the sum of ₹40,000/- (Rupees forty thousand only) as he comes from labour class. Secondly, it is submitted that the nearest police station is about 35 kms from his place of residence and he will not be able to utilise the period of furlough if the condition of daily attendance subsists.

4. The learned Addl. Public Prosecutor submits that having regard to the fact that this is the first time that the petitioner is released on furlough and that he hails from State other than Goa, the respondent has imposed the conditions. In all fairness, the learned Addl. Public Prosecutor submits that this Court may modify the condition of daily attendance directing attendance on an alternate day.

5. We have considered the circumstances and submissions

made. This Court has repeatedly held that amount of bond has to be commensurate to the ability of the convict and should be fixed having regard to overall circumstances of the case. The amount should not be such, as if, it would amount to denial of furlough which is otherwise a right under the relevant Rules. In so far as the second condition of daily attendance, we find that it would be too onerous for a person to attend the police station daily particularly having regard to the fact that the distance between the place of resident and the nearest police station is stated to be more than 30 kms. Considering overall circumstances, we find that the conditions need to be appropriately modified.

6. In the result the following order is passed:-

Petition is partly allowed. The petitioner shall be released on furlough on condition of executing a bond in the sum of ₹.25,000/- (Rupees twenty five thousand only). The petitioner shall attend the nearest police station twice a week. Remaining conditions as imposed are maintained.

7. Rule is partly made absolute in the aforesaid terms.

PRITHVIRAJ K. CHAVAN,J.

C. V. BHADANG,J.