

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.103 OF 2019

Rajesh Kumar Swami
Aged 30 years old,
Prisoner No.46/17,
Presently serving sentence at
Modern Central Jail, Colvale, Goa. Petitioner

V/s.

- 1 The Inspector General of Prisons,
 18th June road,
 Old Education Building,
 Panaji, Goa.
- 2 Public Prosecutor,
 High Court Building, AG's Office,
 High Court, Panaji-Goa. Respondents

Mr. T. George John, Advocate for the Petitioner.
Mr. Pravin Faldessai, Additional Public Prosecutor for the
Respondents.

Coram:- M.S. SONAK, J.

Date :- 17th May, 2019

ORAL JUDGMENT :

Heard Mr. T. George John, learned Advocate for the
petitioner and Mr. Pravin Faldessai, learned Additional Public
Prosecutor for the State.

2. Rule. Rule is made returnable forthwith with the
consent and at the request of the learned Counsel for the

parties as also taking into consideration the limited issue involved. Learned Additional Public Prosecutor waives service on behalf of the State.

3. The challenge in this petition is to the orders dated 24/01/2019 and 01/04/2019 rejecting the petitioner's application for furlough.

4. From the perusal of the impugned orders as well as the material on record, it appears that the rejection is on the basis of the report which states that the petitioner may not surrender to the Police Authorities after the expiry of the furlough period.

5. The impugned order, in fact, also records the contents of the report of the Superintendent of Police, District Zunzunu, in which, the Superintendent has stated that if the petitioner is released on parole leave there is no likelihood of his becoming criminal or such release affecting the law and order situation. This report, it appears, has not been taken into consideration by the Inspector General of Prisons.

6. The report on which the Inspection General of Prisons has relied upon, is also not backed by any serious material. The record in fact indicates that the petitioner was released on furlough on two earlier occasions and on both those occasions there was no complaint of the petitioner breaching the terms and conditions of furlough.

7. Therefore, taking into consideration the aforesaid circumstances as well as the other material on record, the impugned orders are quashed and set aside and the competent authority is directed to release the petitioner on furlough subject to compliance with usual terms and conditions. Formal orders in this regard may be made on or before 30/05/2019.

8. Rule is made absolute in the aforesaid terms. There shall be no orders as to costs. All concerned to act on the authenticated copy of this order.

M.S. SONAK, J.

NH