

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.115 OF 2019

Shri Nazir Pathyekhanvar
Aged 40 years old,
Prisoner No.10/17,
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 order dated 04/04/2019 by which the petitioner's application for furlough has been rejected by the Inspector General of Prisons.

4. The impugned order is basically based upon the adverse Police report. The report, does not appear to be backed by any serious material in support of the apprehensions expressed therein. The report also overlooks the fact that the petitioner had been released on parole on two occasions and on furlough on one occasion. There is nothing on record to indicate that the petitioner had breached the terms and conditions subject to which he was released on parole or furlough.

5. The petitioner's brother has offered to furnish surety to the petitioner. The impugned order itself records that the family members of the petitioner are ready to permit the petitioner to stay along with them if released on furlough.

6. On cumulative consideration of all the aforesaid circumstances and other material on record, the impugned order is quashed and set aside. The petitioner is directed to be released on furlough on the usual terms and conditions. Formal orders in this regard may be made on or before 30/05/2019.

7. 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