

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.127 OF 2019

Shri Dilip Soma Shetye
Aged 50 years old,
Prisoner No.538/02
Presently serving sentence at
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. P. Faldessai, Additional Public Prosecutor for the Respondents.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 29th May 2019

JUDGMENT :

Heard Mr. T. George John, learned Counsel for the petitioner and Mr. P. Faldessai, learned Additional Public Prosecutor for the respondents.

2. Rule. Rule returnable forthwith. Heard finally with

the consent of the learned Counsel for the parties. Mr. P. Faldessai, learned Additional Public Prosecutor waives notice on behalf of the respondents.

3. The challenge in this petition is to the orders dated 26/04/2019 and 20/05/2019 passed by the Inspector General of Prisons, Panaji-Goa by which an application for furlough came to be rejected.

4. Perusal of the impugned orders indicates that the main reason for rejection of furlough is that the Pernem Police Station furnished a report that in case of release of the prisoner on furlough there is a possibility of he taking advantage and may not surrender before the jail authority. He may not be traceable also.

5. Although, the report from the local Police Station is one of the relevant considerations to be taken into account, the respondents in the present case have failed to appreciate that the petitioner was released on parole or furlough on at least 20 occasions which is evident from the nominal roll of register, the copy of which is filed at annexure A. Though, the petitioner is a

convict undergoing life imprisonment for an offence punishable under Section 302 of IPC, having completed 18 years 4 months and 23 days of imprisonment, his conduct in jail appears to be satisfactory and had last surrendered from parole on 27/11/2018. There was no complaint of any kind against the petitioner as regards breach of any of the terms and conditions during his release on parole or furlough. This is a valid consideration for which no sufficient weightage appears to have been attached.

6. Mr. T. George John, the learned Counsel for the petitioner had submitted that the impugned orders are mechanical without application of mind to which there is no serious objection by Mr. P. Faldessai, the learned Additional Public Prosecutor.

7. Rule 315 of the Goa Prisons Rules, 2006 reads thus :

"315. Furlough not to be granted without security.-

(1) Surety bond.- A prisoner shall not be granted furlough unless he has a relative willing to receive him while on furlough and ready to enter into a surety bond in Form I for such amount as may be fixed by the Sanctioning Authority.

(2) Personal bond or cash security.- Every prisoner desirous of release on furlough shall be

required to give a personal bond or cash security of the required amount in Form II or Form III as may be relevant.”

8. The Provisions in Rule 315 of the Prisons Rules will have to be interpreted keeping in mind the objective for which Prisons Rules make provision for grant of furlough. The expression “relative” has not been defined either under the Prisons Act, 1894 or the Goa Prisons Rules, 2006. The expression, will, therefore, have to take its colour from the context as well as the purposes of the enactment.

9. In ***Asfaq Vs State of Rajasthan and others***¹, the Hon'ble Apex Court has held that the furlough is a brief release from prison. It is conditional and is given in case of long-term imprisonment. The period of sentence spent on furlough by the prisoners need not be undergone by him as is done in the case of parole. Furlough is granted as a good conduct remission. A convict, literally speaking, must remain in jail for the period of sentence or for rest of his life in case he is a life convict. It is in this context that his release from jail for a short period has to be considered as an opportunity afforded to him not only to solve his personal and family problems but also to maintain his

1 (2017) 15 SCC 55

links with society. Convicts too must breathe fresh air for at least some time provided they maintain good conduct consistently during incarceration and show a tendency to reform themselves and become good citizens. Thus, redemption and rehabilitation of such prisoners for good of societies must receive due weightage while they are undergoing sentence of imprisonment. For parole, specific reason is required, whereas furlough is meant for breaking the monotony of imprisonment. Since furlough is not granted for any particular reason, it can be denied in the interest of the society.

10. Accordingly, I set aside the impugned orders dated 26/04/2019 and 20/05/2019. The respondent no.1 is directed to release the petitioner on furlough on usual terms and conditions. In case the respondent no.1 wish to add any particular condition taking into consideration the apprehension that was expressed by the local Police Station, the respondent no.1 is free to do so. Such order shall be passed by the respondent no.1 within two weeks from today.

11. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

12. All concerned to act on the basis of the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

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