

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.146 OF 2019

Abhijit B. Patil,
major of age, Indian
c/o. Jeevandas Borkar,
r/o. House No.38/03,
Santemol, Raia, Salcete,
Goa (presently lodged in
Modern Central Jail, Colvale,
Bardez, Goa represented herein by
his next friend/uncle,
Jeevandas Borkar, major of age,
Indian, r/o. House No.38/03,
Santemol, Raia, Salcete.

..... Petitioner.

Versus

Inspector General of Prisons,
the Inspectorate General of
Prisons, Government of Goa,
Old Education Building,
18th June Road, Panaji, Goa.

..... Respondent.

Mr. Ryan Menezes, Advocate for the Petitioner under Legal Aid Scheme.

Mr. S. R Rivankar, Public Prosecutor for the Respondent.

***Coram : S.C. Gupte &
Nutan D. Sardesai, JJ.***

Date : 24th June, 2019.

ORAL JUDGMENT: (Per S.C. Gupte, J.)

1. Heard learned Counsel for the Petitioner and learned Public Prosecutor.
2. Rule. Taken up for hearing forthwith by consent of Counsel.
3. The Criminal Writ Petition seeks to challenge an order passed by the Inspector General of Prisons, Panaji, Goa on 17th May, 2019 on a furlough application of the Petitioner and seeks a mandamus for grant of furlough.
4. The Petitioner is a convict prisoner, undergoing imprisonment at Modern Central Jail, Colvale. The application was rejected on the ground of an adverse police report. The Police had stated that the convict was involved in a serious crime and if released on furlough, a possibility of his absconding, or disappearing and not returning back, could not be ruled out.
5. This Court has already held in the case of ***Jose Pinto vs. State of Goa and ors.*** (Criminal Writ Petition No.142/2019) that what the Police have to find out is not whether the possibility of the convict prisoner absconding or disappearing and not returning back, could be ruled out, but whether there is any concrete possibility that

he may so abscond or disappear and not return back. The report completely overlooks the fact that on past six occasions, whenever the Petitioner was released on furlough or parole, the Petitioner had never breached the terms and conditions for release and had duly reported on each of those occasions to the Prison Authorities, after expiry of the period of release.

6. The impugned order of the Inspector General of Prisons deserves to be quashed and the Petitioner directed to be released on furlough. The Criminal Writ Petition is accordingly disposed of by quashing and setting aside the impugned order dated 17th May, 2019 and ordering release of the Petitioner on furlough. Formal orders in this behalf may be made on or before 1st July, 2019. Rule is accordingly made absolute.

7. All concerned to act on a duly authenticated copy of this order.

Nutan D. Sardesai, J.

S.C. Gupte, J.