

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.147 OF 2019

Maqbool Bangalore,
major of age, India, lodged as
C.P. 771/05, at Modern Central
Jail, Colvale, Bardez, Goa,
(through his next friend
Jose R. A. Rodrigues, major,
businessman, B4, Riviera Residency,
PDA Colony, Porvorim, Bardez). 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 2nd April, 2019 on the furlough application of the Petitioner and seeks a mandamus for grant of furlough.

4. The Petitioner is a convict prisoner, undergoing imprisonment at Central Jail, Colvale. The application was rejected on the ground of an adverse police report. The Commissioner of Police, Hubali-Dharwad 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. It is further stated that Petitioner, if release, may indulge in crime against the relatives of his deceased wife at Hubli.

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. Unless the prison authorities have some material to form an opinion that the convict prisoner would abscond and not report back, the application for furlough cannot be rejected. The impugned order does not indicate that there is any such material considered by the Inspector General of Prisons whilst passing the impugned order.

6. So also, the observation that the convict prisoner, if released on furlough, may indulge in crime against the relatives of his deceased wife of Hubli, appears to be nothing but a pure speculation. There is no basis for making such observation. The Petitioner has been released on parole or furlough on various occasions. The Petition lists out six such occasions. On none of these occasions there was either failure on his part to meet the conditions of release or any other adverse report about harm or threat to anyone.

7. The impugned order of the Inspector General of Prisons accordingly deserves to be quashed and the Petitioner directed to be released on furlough. The Criminal Writ Petition is disposed of by quashing and setting aside the order dated 2nd April, 2019 and directing the Respondent to release the Petitioner on furlough. Formal orders in this behalf may be made on or before 1st July, 2019. Rule is accordingly made absolute.

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

Nutan D. Sardesai, J.

S.C. Gupte, J.