

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.155 OF 2019

Mr. Shanker Tiwari

.... Petitioner

V/s.

The State of Goa & Ors.

.... Respondents

Ms. Veena Vaman Ghode, Advocate for the Petitioner.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the Respondents.

**Coram :- S. C. GUPTE &
NUTAN D. SARDESSAI, JJ.**

Date:- 2nd JULY, 2019

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

In this petition, a convict prisoner is seeking a writ of mandamus for grant of parole. It is the case of the petitioner that his application for parole was on the ground of his mother's indisposition and medical attention needed by her. It was submitted that she was due for a cataract surgery. A medical certificate to that effect was produced before the prison authorities. In his impugned order dated 17/06/2019, the Inspector General of Prisons has found the medical certificate to be genuine and that the convict prisoner's mother was indeed due for operation. The application for parole, however, appears to have been rejected on two grounds. The first is that the possibility of the prisoner absconding or disappearing and not

returning back could not be ruled out. The second ground is that the prisoner had already availed of 104 days of parole in the preceding year and the cause shown now appeared to be no different/serious and accordingly, failed the test of reasonability.

2. It is not in dispute that earlier paroles granted to the prisoner were on grounds, which were different from the ground on which the present application has been made. The present application is on the ground of surgery of the prisoner's mother and which has been found to be a genuine case by the prison authorities upon inquiries conducted in that behalf. As we have said in a number of cases, it is no ground to deny parole that the possibility of the prisoner absconding and not returning back could not be ruled out. This is to be found more or less as a stock statement in most of the orders passed on parole applications. What we have emphasized is that the authorities are not to rule out a possibility, but must have a genuine reason to believe that the prisoner may abscond or disappear and not report back.

3. In the circumstances of the case, as noted above, it was imperative for the prison authorities to grant parole on

humanitarian grounds.

4. Accordingly, the impugned order dated 17/06/2019 is quashed and set aside and the Inspector General of prisons is directed to grant parole to the petitioner for a period of 30 days. Formal orders on the parole application may be passed latest by 15/07/2019. The petition is disposed of accordingly.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

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