

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.177 OF 2019

Jayesh Gurudas Naik,
major of age, Indian,
r/o. H.No.62, Cotta, Bali,
Quepem, Goa
(presently in custody at
Central Jail, Colvale, Goa
through next friend, Meena Shet,
major, r/o. House No.135,
Sonarbhatt, Betim, Goa) Petitioner.

Versus

The Inspector General of Prisons,
Government of Goa
Office of inspector General of Prisons,
18th June Road,
Old Education Building,
Panaji, Goa. Respondent.

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

Mr. Gaurish Nagvekar, Additional Public Prosecutor for the
Respondent.

***Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.***

Date : 29th July, 2019.

ORAL JUDGMENT: (Per M.S. Sonak, J.)

1. Heard Mr. Ryan Menezes, under Legal Aid Scheme, for the
Petitioner and Mr. Gaurish Nagvekar, learned Additional Public

Prosecutor for the Respondents-State.

2. Rule. Rules is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. The challenge in this Petition is to the order dated 1st July, 2019 by which the Inspector General of Prisons has rejected the Petitioner's application for furlough. The rejection is basically on two grounds. First is that the period of six months was yet to expire from the date of the Petitioner's surrender to jail after availing the last furlough. The second reason is that there is an adverse police report and possibility of the Petitioner breaching the terms and conditions of furlough cannot be ruled out.

4. In so far as first ground is concerned, the same, as of date, does not survive. This is because the period of six months stands completed as on 16.7.2019 according to the records placed by the Respondents themselves.

5. In so far as the second ground is concerned, we find that there is no material to back such a ground which appears to have been routinely raised. The impugned order does not take into consideration that the Petitioner was released either on parole or furlough at least on four occasions in the past and there has been no allegation of his having breached the terms and conditions.

6. For the aforesaid reasons, the impugned order is quashed and set aside. The Petitioner is directed to be released on furlough, subject to, no doubt, complying with the usual terms and conditions.

7. Mr. Nagvenkar, learned Additional Public Prosecutor states that formal orders on the furlough application will be made within one week from today.

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

Nutan D. Sardesai, J.

M.S. Sonak, J.