

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 187 OF 2019

Mr. Kamlakant G. Phadte,
Age 47 years,
Prisoner No.20/18,
R/o Gautam Wada,
H.No.171, Gadga Wada,
Borim Ponda Goa.
Presently lodged at Central Jail,
Colvale, Bardez Goa.

... Petitioner

Versus

1. The State of Goa,
(Through Under Secretary Home Department)
Secretariat, Porvorim Goa.
2. The Inspector General of Prisons,
Collector Building,
North Goa, Panaji.
3. The Superintendent,
Central Jail, Colvale, Bardez Goa. ... Respondents

Ms. Veena Vaman Ghode, Advocate for the Petitioner.

Mr. G. Nagvenker, Addl. Public Prosecutor for the Respondents.

**Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.**
Date:- 21st August, 2019

Oral Judgment (Per M. S. Sonak, J)

Heard Ms. Ghode, learned counsel for the Petitioner and

Mr. G. Nagvenker, learned Addl. Public Prosecutor for the Respondents.

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

3. The challenge in this petition is to the order dated 9th August, 2019, made by the Superintendent of Central Jail, Colvale rejecting the Petitioner's parole application.

4. From the perusal of the impugned order, we find that the Superintendent has simply relied upon the report of the Sub Divisional Police Officer about the possibility of the Petitioner absconding/disappearing, if released on parole. The other factor taken into consideration by the Superintendent is the fact that the Petitioner was released on parole on 26th March, 2019 and therefore, the Petitioner does not deserve parole after such a short interval of time.

5. According to us, in the peculiar facts of the present case, both the aforesaid reasons, cannot be accepted. In the past, the Petitioner has been released on parole and there is no complaint about the Petitioner breaching terms and conditions of his release. The apprehension expressed by the SDPO does not appear to be backed by any independent material in support of the same. Besides, the Petitioner has produced on record the medical certificate which indicates that his

wife is suffering from myocardial infarction and has been advised complete bed rest for five weeks with follow up once in a week. The medical certificate also states that the condition of the patient has shown no sign of improvement and she requires further investigation and treatment.

6. According to us, the medical certificate is required to be considered in the peculiar circumstances of the present case.

7. Accordingly, we set aside the impugned order and direct that the Petitioner be released on parole subject to the usual terms and conditions. The formal order in this regard be made by the concerned Authority within one week from today.

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

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

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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