

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 227 OF 2018

Nagesh Gaonkar,
Prisoner No.173/15,
Presently serving sentence at
Modern Central Colvale Jai,
Colvale, Goa.

..... Petitioner.

Versus.

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

2. Public Prosecutor
High Court Building,
AG's Office, High Court,
Panaji, Goa

.... Respondents.

Mr. T. George John, Advocate for the Petitioner.

Mr. Pravin Faldessai, Additional Public Prosecutor for the
Respondent-State.

***Coram : M.S. Sonak &
Prithviraj K. Chavan, JJ.***

Date : 14 January 2019.

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

Heard Mr. T. George John, the learned Counsel for the Petitioner and Mr. Pravin Faldessai, the learned Additional Public Prosecutor for the Respondent-State.

2. Rule. Rule made returnable forthwith. Heard with the consent of the parties.

3. The challenge in this Petition is to the Order dated 7 December 2018, by which the Petitioner's application for furlough came to be rejected. The only reason set out in the impugned order is that the Petitioner may interfere with the witnesses who have deposed against him and even the possibility of the Petitioner absconding/disappearing cannot be ruled out.

4. If the nominal roll of the Petitioner is perused, it is evident that the Petitioner came to be released on furlough on three occasions, and on parole also on three occasions, in the past, between the periods 12 January 2016 and 15 June 2018. There is no complaint against the Petitioner during the period of his release that the Petitioner either interfered with the witnesses, or otherwise breached the terms and conditions, subject to which he was released on parole/furlough. This aspect has not all be considered by the

Respondent. There is no material placed on record by the Respondent to indicate the basis for apprehension.

5. Accordingly, for the aforesaid reasons, the impugned order is set aside. The Petitioner is directed to be released on furlough, subject to the usual terms and conditions. Formal orders for release on furlough to be made within two weeks from today.

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

7. All parties to act on the basis of authenticated copy of this order.

Prithviraj K. Chavan, J.

M.S. Sonak, J.