

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.2 OF 2019

Rajasab Mujawar
Aged 46 years old,
Prisoner No.71/11,
Presently serving sentence at
Modern Central Colvale Jail,
Colvale, Goa.

... Petitioner

Versus

1. The 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. P. Faldessai, Additional Public Prosecutor for the Respondents.

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

Date : 14th January, 2019

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

Heard Mr. T. George John, learned counsel for the Petitioner and Mr. P. Faldessai, learned Additional Public Prosecutor for the Respondents.

2. Rule. Rule returnable forthwith. Heard finally with the consent of the learned counsel for the parties. Mr. P. Faldessai, learned Additional Public Prosecutor waives notice on behalf of the Respondents.

3. The challenge in this petition is to the order dated 17th December, 2018 by which furlough came to be declined to the Petitioner.

4. Perusal of the impugned order indicates that the main reason for rejection of furlough is that the local police at Karnataka expressed an apprehension that in case the Petitioner is released on

furlough, he may create bad situation in the society or he may abscond.

5. Although, the report from the local police is one of the relevant consideration to be taken into account, the Respondents in the present case have failed to appreciate that the Petitioner was released on furlough at least on three occasions for the period between 29th December, 2014 to 18th January, 2015, 12th February, 2016 to 10th March, 2016, 17th May, 2017 to 13th June, 2017. On all these occasions, there was no complain that the Petitioner had breached the terms subject to which he was enlarged on furlough. This is a valid consideration for which no sufficient weightage appears to have been attached.

6. Accordingly, we set aside the impugned order dated 17th December, 2018 and direct that the Petitioner be released on furlough on the usual terms and conditions. In case the Respondents wish to add any particular condition taking into consideration the apprehension that was expressed by the local police at Karnataka, they are free to do so.

7. The orders in the aforesaid regard to be made within two weeks 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.

Prithviraj K. Chavan, J.

M. S. Sonak, J.

*at**