

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.37 OF 2020

Mr. Vikat S. Bhagat,
s/o Surendra Bhagat, major of age,
Indian, resident of H. No. 554,
Bhagatwada, Canacona, Goa
(lodged in judicial custody at Central Jail,
Colvale, represented by his next friend/sister,
Ms. Farah S. Bhagat, d/o Surendra Bhagat,
major of age, married, resident of
H. No. 423, Nirankal, Ponda, Goa). Petitioner

Versus

- 1) State of Goa,
through Chief Secretary,
Government of Goa,
Secretariat, Porvorim. Goa.
- 2) Inspector General, Prison,
Inspectorate of Prisons,
Government of Goa,
Old Education Building,
18th June Road, Panaji, Goa.
- 3) The Superintendent, Central Jail,
Colvale, Colvale, Bardez, Goa.
- 4) Assistant Superintendent,
Central Jail, Colvale,
Colvale, Bardez, Goa.

5. Shri. Hemant Kumar, IAS,
Inspector General, Prisons,
Inspectorate of Prisons,
Government of Goa,
Old Education Building,
18th June Road, Panaji, Goa.

6. Mr. Bhanudas Pednekar,
Assistant Superintendent,
Inspectorate of Prisons,
Government of Goa,
Old Education Building,
18th June Road, Panaji, Goa.

.... Respondents

Mr. T. George John, Advocate for the Petitioner.
Mr. S. R. Rivonkar, Senior Advocate/Public Prosecutor along with Mr.
Gaurish Nagvenkar, Additional Public Prosecutor for the State.

Coram:- M.S. SONAK &
SMT. M. S. JAWALKAR, JJ.

Date:- 3rd August, 2020

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

Heard Mr. T. George John, learned Advocate for the Petitioner and Mr. S. R. Rivonkar, learned Senior Advocate/Public Prosecutor for the State who appears along with Mr. Gaurish Nagvenkar, learned Additional Public Prosecutor.

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

3. The petitioner, complains about his alleged cellular confinement, where he is lodged as an undertrial prisoner.

4. The records reveal that a penalty to detain him in cellular confinement was imposed upon the petitioner sometime in October, 2019. However, there is no dispute that this order was set aside by the learned Sessions Judge.

5. Therefore, ordinarily, the petitioner, should have been shifted out of cellular confinement. The record however reveals that the petitioner expressing certain apprehensions, including threats to his own life represented to the Superintendent of Police by a representation dated 19.11.2019.

6. Accordingly, the petitioner, was shifted to a single cell in NDPS Block. The petitioner styles this shifting, which according to us, was made in terms of his own request as cellular confinement once again.

7. The respondents have filed an affidavit in this matter. Mr. Rivonkar submits that this arrangement was made at the request of the petitioner and in view of the apprehensions expressed by him. He further states that if the petitioner wants a dis-continuance of this arrangement, the respondents, are not averse to shifting the petitioner to Block No.2, which is even otherwise, a cell where the male

undertrial prisoners are lodged. He however submits that the petitioner is insisting for return to Block No.4, which, for reasons set out in the affidavit, may not be appropriate.

8. According to us, the petitioner, cannot insist upon any particular block. In any case, Mr. T. George John now states that the petitioner, will have no objection whatsoever if he is placed in Block No.2 as proposed by Mr. Rivonkar.

9. Accordingly, we direct the concerned respondents to shift the petitioner to Block No.2 as proposed. This shifting to be done as early as possible.

10. Mr. T. George John then points out to the other reliefs in the petition and submits that an inquiry should be ordered through the Chief Secretary and further, the petitioner should be paid compensation for what he terms as his illegal cellular confinement.

11. According to us, both these additional reliefs by the petitioner are quite misconceived in the facts and circumstances of this case. The records bear out that the arrangement was basically made at the request of the petitioner and in order to allay the apprehensions expressed by him about his security. Even before this Court, the respondents, did not insist shifting the petitioner to Block No.2, which is even

otherwise, a cell in which male undertrial prisoners are lodged. The material on record does suggest that the petitioner was insisting upon shifting to Block No.4 where he was initially lodged. Obviously, the petitioner, cannot insist upon such shifting. Ultimately, it is for the prison authorities to decide such issues, no doubt bonafide and in accordance with any rules and regulations as may be existing in this regard. No case is made out for ordering any inquiry or for payment of any compensation.

12. This petition is therefore partly allowed and the petitioner, is directed to be shifted to Block No.2 as early as possible. However, the reliefs related to inquiry or payment of compensation are hereby rejected.

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

14. All concerned to act on the basis of an authenticated copy of this Order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.