

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 16 OF 2020**

Mr. Dilip S. Shetye, 51 years old, Convict
Prisoner No. 538/02, presently serving sentence at
Central 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 with Ms. Mafida Shaikh, Advocates for the
Petitioner.

Mr. Gaurish Nagvenker, Additional Public Prosecutor for the
Respondents.

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

Date:- 28th February, 2020

ORAL JUDGMENT:

Heard Mr. George John, the learned Counsel for the
petitioner and Mr. Nagvenker, the learned Additional 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 petitioner was convicted for an offence punishable under Section 302 of IPC and to undergo life imprisonment and fine of Rs.5,000/- and in default to undergo 6 months rigorous imprisonment.

4. The petitioner, by this Petition, challenges the order dated 10.12.2019, by the Inspector General of Prisons, rejecting the furlough application.

5. The furlough sought by the petitioner has been refused on the ground that the prisoner has already availed furlough for a period of 28 days from 13.06.2019 to 10.07.2019. Thus, he has exhausted the eligible duration of furlough per year as provided in Sub-Rule (1) (c) of Rule 310 of the Goa Prisons Rules, 2006. Therefore, the furlough request for 28 days is infructuous and the same was rejected.

6. On perusal of application and order thereon, it appears that the petitioner has applied on 27.11.2019 for release on furlough. There is no specific period mentioned in the application. In view of Rule 316 of the Goa Prisons Rules, the application for grant of furlough is required to be submitted two months before the prisoner becomes eligible to be considered for release on furlough. Thus, in my considered opinion, the application is made as per the provisions of law and if the period is calculated from his last return on furlough i.e.

10.07.2019, six months will expire on 10.01.2020. So it was incumbent on the Authority to consider his application in view of this provisions and to treat his application for furlough after six months from his last return from furlough.

7. In view of the above provisions, it is also clear that even if we presume the calendar year of 2019, from 01.01.2020 the new year commences and even if he has availed 28 days of furlough in 2019, he is eligible to apply for furlough in 2020. In view of this factual position, it would be proper to set aside the order dated 10.12.2019, passed by the Inspector General of Prisons below the application by the petitioner. All contentions in the present matter are kept open, to be decided by the Inspector General of Prisons including the issue of eligibility, maintainability and entitlement. While deciding the application, the Inspector General of Prisons to take into consideration the order passed in Writ Petition No. 23/2011 and Rule 316 of the Goa Prisons Rules.

8. Accordingly, the impugned order dated 10.12.2019 passed by respondent no. 1 is hereby set aside. The Inspector General of Prisons is directed to consider the application for furlough of the petitioner afresh as per the provisions of law and to decide the same within a period of two weeks from today.

9. The Petition is disposed off accordingly. Rule in this Petition is made absolute in the aforesaid terms.

10. Parties to act on authenticated copy of this Order.

M.S. JAWALKAR, J.

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