

(2018) 05 BOM CK 0058

In the Bombay High Court

Case No : Criminal Writ Petition No.89 Of 2018

Mr. Adawayya @ Swami Kuntainawar

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 02-05-2018

Acts Referred:

Indian Penal Code, 1860 — Section 302
Goa Prison Rules, 2006 — Rule 310(1)(c)

Citation : (2018) 05 BOM CK 0058

Hon'ble Judges : N.M. Jamdar, J;Prithviraj K. Chavan, J

Bench : Division Bench

Advocate : Salil Satish Saudagar, Pravin Faldessai

Final Decision : Disposed Off

Judgement

N.M. Jamdar, J.)

1. Rule. Rule made returnable forthwith. The Respondents waive service. Taken up for final disposal.

2. The Petitioner was convicted for the offence punishable under Section 302 of the Indian Penal Code, by Judgment and Order dated 23 March

2017. The Petitioner is undergoing imprisonment since the date of his arrest on 26 March 2013. On 8 June 2013, he had made an application for

furlough of twenty one days to go to his native place. The reason given by him is that he has to spend some quality time with his family and to allow

him to connect better with the society. This application has been rejected by the Inspector General of Prisons by the impugned order dated 26 October

2017.

3. In the impugned order, the Inspector General of Prisons has noted that the Petitioner is not eligible for furlough, as he has not completed the period

of imprisonment as required under Rule 310(1) (C) of the Goa Prison Rules, 2006. It is not explained in the impugned order as to what is the exact period of actual imprisonment that the Petitioner has not undergone in terms of Rule 310(1)(C) of the Rules of 2006.

4. It is the contention of the Petitioner that perhaps the Inspector General of Prisons meant that the Petitioner has not completed 3 years from the date of his conviction. He submitted that the Rule 310(1)(C) which is amended in the year 2008 states that three years shall be counted from the date of admission in the prison as convict. Since neither reply affidavit is filed nor the memorandum makes it clear, we have to assume that this is the ground on which the Inspector General of Prisons has rejected the application. But even assuming that the Petitioner is entitled to count the period of three years from the date of his admission, further consideration under Rule 310(1)(C), will still arise.

5. In these circumstances, we will have to direct the Inspector General of Prisons to reconsider the application of the Petitioner by keeping in mind the amended provisions of Rule 310(1)(C) of the Rules of 2006 which states that in respect of the release on furlough for the first time, the period of three years in respect of the person sentenced for life will have to be counted from the date of his admission to the prison. The Inspector General of Prisons will accordingly take a fresh decision considering all the parameters, within a period of four weeks from today.

6. Writ Petition is, accordingly, disposed of. Rule made absolute in the above terms.