

(2011) 12 BOM CK 0103

In the Bombay High Court

Case No : Criminal Writ Petition No. 112 of 2011

Mr. Dinesh Arolkar, P. No. 34, Currently held at Central Jail at
Aguada, Goa

APPELLANT

Vs

State of Goa, Home Department, Secretariat, Porvorim, Goa,
The Inspector General of Prisons, Collectorate, North Goa,
Panaji, Goa and The Superintendent of Prisons, Central Jail
Aguada Bardez-Goa

RESPONDENT

Date of Decision : 15-12-2011

Acts Referred:

Goa Prison Rules, 2006 — Rule 324

Citation : (2012) BomCR(Cri) 713

Hon'ble Judges : F.M. Reis, J

Bench : Single Bench

Advocate : Prema Matkar, for the Appellant; C.A. Ferreira, Public Prosecutor, for the Respondent

Judgement

F. M. Reis, J.—Heard Ms. Matkar, learned Counsel appearing for the Petitioner and Shri C. A. Ferreira, learned Public Prosecutor for the Respondents.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents waives service.

3. The above Petition challenges the Order passed by Respondent no.1 dated nil, November, 2011, whereby an application filed by the Petitioner for parole came to be rejected.

4. Learned Counsel appearing for the Petitioner has pointed out that the Petitioner has sought parole on the ground that his sister is going to be subjected for a serious ear operation and, as such, the Petitioner is entitled for such parole. Learned Counsel further pointed out that the Respondent no.1 has rejected the application essentially on the ground that there was no supporting evidence produced by the Petitioner to establish that any operation was fixed on a particular date. Learned Counsel further pointed out that under Rule 324 of the

Goa Prison Rules, the Petitioner is entitled for parole as his sister is going to be subjected to a serious operation. Learned Counsel further pointed out that the Petitioner had availed of such parole earlier on five occasions and he has complied with the terms and conditions imposed on him.

5. At the last date of hearing, the learned Counsel appearing for the Petitioner was asked to produce evidence to establish as to when the operation of the sister of the Petitioner was fixed at a hospital at Mapusa. Accordingly, the case papers of the sister of the Petitioner have been produced which disclose that the date of operation has been fixed on 03.01.2012 subject to the control of blood pressure.

6. Shri C. A. Ferreira, learned Public Prosecutor appearing for the Respondents has not disputed the fact that the Petitioner had earlier availed of parole and had complied with the terms and conditions. Learned Public Prosecutor has further pointed out that though as per the case papers produced by the Petitioner the operation appears to have been fixed on 03.01.2011, but, however, the Petitioner should not be allowed to avail of such parole in case the operation does not materialize. Learned Public Prosecutor further pointed out that considering the conduct of the Petitioner in earlier cases, strict condition should be imposed that the Petitioner should not get the benefits of such parole in case the operation does not materialize. Learned Public Prosecutor further pointed out that the Petitioner is not entitled for parole for one month as sought by the Petitioner.

7. Having heard the learned Counsel and on perusal of Rule 324 of the Goa Prison Rules, there is no doubt that the Petitioner is entitled for parole in cases in which his sister is suffering from a serious illness. In the present case, on perusal of the case papers produced by the Petitioner, the ear operation of the sister is tentatively fixed on 03.01.2012, but, however, the Petitioner cannot avail of such parole in cases in which such operation does not materialize. Considering that there is no dispute to the fact that the Petitioner had taken the benefit of parole on earlier occasions and that he had also complied with the terms and conditions imposed on him, I find that there is no reason to refuse parole to the Petitioner. Considering the facts and circumstances of the case and taking note of the fact that there is no confirmed date of the operation, I find that the Petitioner should be released on parole for a period of one week from 02.01.2012.

8. In view of the above, I pass the following :

ORDER

- (i) The impugned Order dated nil, November, 2011, is quashed and set aside.
- (ii) The application for parole of the Petitioner is allowed for a period of seven days subject to the usual terms and conditions in accordance with the Rules.
- (iii) Rule in the above terms.
- (iv) Petition stands disposed of accordingly.