

**(2011) 12 BOM CK 0085**

**In the Bombay High Court**

**Case No :** Criminal Writ Petition No. 111 of 2011

Mr. Subhash Krishnan, Prisoner No. 814, Central Jail,  
Aguada, Sinquerim, Goa

APPELLANT

Vs

State of Goa and The Superintendent, Central Jail, Aguada,  
Sinquerim, Goa

RESPONDENT

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**Date of Decision :** 02-12-2011

**Acts Referred:**

Goa Prison Rules, 2006 — Rule 324

**Citation :** (2012) BomCR(Cri) 313

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

**Bench :** Single Bench

**Advocate :** Caroline Collasso, for the Appellant; C. A. Ferreira, Public Prosecutor,  
for the Respondent

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## **Judgement**

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

2. Rule. Heard forthwith with the consent of learned Counsel. Learned Public Prosecutor waives service.

3. The above Petition challenges the Order dated 10.11.2011 passed by Respondent no.1, whereby the application filed by the Petitioner for parole of sixty days came to be rejected.

4. The application for parole was filed by the Petitioner for parole essentially because the brother of the Petitioner is going to get married on 22.12.2011 and the Petitioner desires to attend the said wedding. It was further the contention of the Petitioner that besides the wedding of his brother, there were another two occasions in the family namely an engagement of his sister which is fixed by the end of December, 2011 and the wedding somewhere in January, 2012. It was further the contention of the Petitioner that he had already served eight years of imprisonment and that during the said period he was released on parole on five

occasions and all the conditions were duly satisfied by the Petitioner on all such occasions. The Respondent no.1 on the basis of a report sent by Superintendent of Police, South Goa District, Margao, rejected the application filed by the Petitioner by the impugned Order.

5. Ms. Collasso, the learned Counsel appearing for the Petitioner, has assailed the impugned Order and pointed out that under Rule 324 of the Goa Prison Rules, 2006, the Petitioner is entitled for parole in cases in which there is a wedding in the family. Learned Counsel further pointed out that the report of the Superintendent of Police does not disclose any justifiable reasons as to why such parole be refused to the Petitioner. Learned Counsel further submitted that the Petitioner shall comply with all the conditions of parole in case he is permitted to attend the occasions in the family referred to herein above.

6. On the other hand, Shri Ferreira, learned Public Prosecutor appearing for the Respondents, has pointed out that the Police had given an adverse report and, as such, the Respondent no.1 was justified to pass the impugned Order.

7. On perusal of the impugned Order, I find that the Respondent no.1 has essentially relied upon the report of the Superintendent of Police. The report does not disclose any serious allegations against the Petitioner which was necessitate refusal of parole to the Petitioner. There is no dispute that a wedding of the brother is fixed in the family of the Petitioner. Rule 324 of the Goa Prison Rules, 2006, also gives a right to the Petitioner to seek a parole in such situation. The record reveals that during the period of imprisonment, the Petitioner was granted parole and he did not commit any breach of any of the terms imposed on him. On the basis of such material on record, I find that Respondent no.1 was not justified to refuse the parole application filed by the Petitioner. But, however, Shri Ferreira, learned Public Prosecutor, is justified to contend that a period of sixty days is a long period of time sought by the Petitioner which should be reduced.

8. In the facts and circumstances of the case and taking note of the fact that the Petitioner has two occasions in the family, I find that the Petitioner should be granted parole for a period of thirty days from the day he complies with the formalities in accordance with law. The Petitioner will have to comply with all the conditions as imposed by the concerned authorities as contemplated in law.

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

#### ORDER

(i) The impugned Order dated 10.11.2011 passed by the Respondent no.1 is quashed and set aside.

(ii) The Petitioner is entitled for parole for a period of thirty days after complying with all the pro-visions of rules and law applicable and subject to the terms and condition as contemplated by law.

(iii)Rule in the above terms.

(iv)Criminal Writ Petition is disposed of in above terms with no Order as to costs.