
(2017) 04 BOM CK 0067
In the Bombay High Court
Case No : 67 of 2017

Shri Shamsunder Anchan

APPELLANT

Vs

The State of Goa, & Ors.

RESPONDENT

Date of Decision : 18-04-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 302](#),
[Section 307](#) -
Goa Prison Rules, 2006, Rule 324

Citation : (2017) 04 BOM CK 0067

Hon'ble Judges : F. M. Reis, Nutan D. Sardessai

Bench : DIVISION BENCH

Advocate : C. Collasso, P. Faldessai

Judgement

1. Heard Ms. C. Collasso, learned Advocate for the petitioner and Shri P. Faldessai, learned Additional Public Prosecutor for the State.
2. Rule.
3. Heard forthwith with the consent of the learned Advocate appearing for the respective parties. Shri P. Faldessai, learned Additional Public Prosecutor waives service for the State.
4. The brief case of the petitioner was that, he is in the custody and serving the sentence imposed on him under Sections 302 and 307 I.P.C. He had earlier made an application for parole on the grounds of his mother's ailment and since she was suffering from high blood pressure and diabetes and needed someone near to spend quality time with her. This request was rejected by the respondent no.3 vide the order dated 20/03/2017. The petitioner had a sister but she was unable to look after her mother due to her own work and as she was working as a Nurse at the Asilo Hospital, Mapusa. He required parole to take care of his mother as also to spend quality time with her and also to make necessary arrangements for her care and well-being in his absence and was therefore challenging the order

passed by the respondent no.2 denying the benefit of parole to him.

5. Ms. C. Collasso, learned Advocate for the petitioner contended that his mother was sick and that there was none to look after her including his sister who was herself a nurse, gainfully employed and had to look after her own family. The petitioner was earlier released on furlough and his case had to be considered sympathetically and in the interest of justice.

6. Shri P Faldessai, learned Additional Public Prosecutor contended that there was no material on record to confirm the medical condition of his mother and even otherwise there was no reason to interfere with the order under challenge when the respondent no.2 had properly examined the Rules and held that there was no emergent situation to release the prisoner on parole.

7. We have heard the learned Advocate for the petitioner and the learned Additional Public Prosecutor on behalf of the respondents and besides perused the order under challenge. The respondent no.2 had clearly observed on examining the Rule and the police report that so called illness of his mother did not attract Rule 324 of the Goa Prison Rules, 2006 and thus there was no emergent situation to release him on parole. We find that the material on record is not adequate to consider the request on behalf of the petitioner when the medical record of the mother indicates that she was under treatment in October,2016 and there was no subsequent medical record to consider the request of the petitioner for his release on parole. We therefore do not find any reason to interfere with the impugned order and therefore reject the petition with liberty to the petitioner to approach the respondent no.2 afresh with the additional medical records and the respondent no.2 would accordingly reconsider his request within four weeks.

8. In these terms the petition stands disposed off with no order as to costs.