

**IN THE HIGH COURT OF BOMBAY AT GOA.**

**(LD-VC-CRI -42/2020 )**

Yeshwant Bhagat ..... Petitioner

Vs

Inspector General, Prisons ..... Respondent

Shri R. Menezes, Advocate for the Petitioner.

Shri S. Dhargalkar, Addl. Public Prosecutor for the respondents.

**Coram:- DAMA SESHADRI NAIDU, J.**

**Date:- 3<sup>rd</sup> September 2020.**

P.C.

The petitioner, a convict serving sentence, has been lodged in Central Jail, Colvale. Earlier, on four occasions he was released on furlough, and his conduct then was said to be satisfactory. No remarks either. One more time he has applied.

2. The respondent, through memorandum dated 12.12.2019, rejected the petitioner's request. It was on the premise that the person who undertook to take care of the petitioner on furlough, that is Father Bryan Pinto, was absent and also said to have expressed his disinclination to take the responsibility.

3. Later, the petitioner produced a written undertaking from Father Bryan Pinto on 8.1.2020. It reveals that Father Pinto, in fact, was willing to accommodate the petitioner. Besides, he has also gone on record

affirming that police never contacted him earlier. Despite the petitioner's submitting this undertaking, the respondent rejected the petitioner's application for furlough. This time, it is on a different ground, though.

3. As seen from the impugned order, dated 30.4.2020, the respondent has felt that the petitioner would be safer inside the jail than in the church because of the prevailing pandemic. Besides, the Authority has also observed that if the convict had applied for furlough to stay with his family, it would have been considered like any other similar case.

4. The fact, nevertheless, remains that all along the petitioner's family has never shown interest in welcoming the petitioner. Then, Father Bryan Pinto, a good Samaritan, has come forward, it seems.

5. In response to the submissions made by the learned petitioner's counsel, the learned Additional Public Prosecutor, on instructions, has fairly submitted that the petitioner's conduct during the earlier furlough was satisfactory and no violation was reported. But he stresses that the respondent rejected the petitioner's claim keeping in mind purely the petitioner's own safety.

6. Heard Shri R. Menezes, the learned counsel for the petitioner, and Shri S. Dhargalkar, the learned APP for the respondent.

7. Indeed, the letter the petitioner produced from Father Bryan Pinto unmistakably establishes that he is willing to accommodate and take care of the petitioner during his furlough. His past conduct during the previous furloughs has nothing to find fault with. And even the

respondent has fairly submitted that only the petitioner's safety weighed with him when he passed the impugned order.

8. In this context, Shri R. Menezes, the petitioner's counsel brings to my notice that, in fact, COVID broke out in jail and the inmates and staff were affected. On the contrary, the Church administration have taken measures to see that the congregations of the faithful suffer no harm. So, the petitioner's staying with Father Bryan Pinto has not been fraught with any danger. He has also pointed out that the petitioner will not be staying in the church *per se*; instead, Father Bryan Pinto will accommodate him elsewhere.

9. I reckon the respondent's rejecting the petitioner's furlough application was on a technical ground. Taking into account the petitioner's past conduct and Father Pinto's willingness to take care of the petitioner, I set aside the impugned order. The respondent will release the petitioner on furlough for a period he desires proper.

**DAMA SESHADRI NAIDU, J.**

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