
(2012) 11 BOM CK 0006

In the Bombay High Court

Case No : Criminal Writ Petition No. 105 of 2012

Bostiao Seby Rodrigues

APPELLANT

Vs

State of Goa and Others

RESPONDENT

Date of Decision : 21-11-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302
Prisons Act, 1894 — Section 59

Citation : (2013) 2 BomCR(Cri) 480

Hon'ble Judges : Lavande A.P., J

Bench : Single Bench

Advocate : Prema Matkar, for the Appellant; M. Pinto, Assistant Public Prosecutor, for the Respondent

Judgement

Lavande A.P., J.—Heard Ms Matkar, learned Counsel for the petitioner and Ms. Pinto, learned Additional Public Prosecutor for the respondents. Rule. Heard forthwith.

2. By this petition, the petitioner challenges a part of the order dated 26th October, 2012, passed by respondent No. 2, by which the petitioner has been ordered to furnish a bond for Rs. 1,00,000/- (Rupees one lakh only) with one surety in the like amount, while granting furlough to him for a period of 28 days. The petitioner has been convicted for the offence punishable u/s 302 of the IPC.

3. A number of petitions have been filed in this Court by the convicts who have been granted furlough/parole upon execution of bond in the sum of Rs. 1,00,000/- with one surety in the like amount and in almost all the matters, the bond amount has been reduced.

4. Learned Addl. P.P. stated that the State Government has taken a decision pursuant to the directions given by this Court, inter alia, fixing minimum bond amount of Rs. 1,00,000/- in the event furlough/parole is granted to a convict. A copy of the minutes of the meeting held on 26th March, 2008 pursuant to the

directions given by this Court is placed on record. Perusal of the minutes discloses that in the meeting which was, inter alia, attended by the then Inspector General of Prisons, a decision was taken fixing the minimum bond amount in the sum of Rs. 1,00,000/-.

5. Grant of furlough or parole is governed by the Goa Prisons Rules, 2006 (the Rules" for short) which have been framed pursuant to the powers vested in the State Government u/s 59 of the Prisons Act. Rule 309 of the Rules authorises the Inspector General (Prisons) to grant furlough to the convicted prisoners, subject to fulfilment of other conditions. Rule 309 to Rule 323 deal with the provisions regarding grant of furlough; whereas Rule 324 to Rule 333 deal with the provisions regarding grant of parole. In none of these Rules, the amount of bond to be executed in the event a convict is granted furlough/parole, is mentioned.

6. A furlough is granted to a convict in order to enable him/her to maintain continuity with his/her family life; to save him/her from the evil effects of continuous prison life; to enable him/her to maintain and develop his/her self-confidence and to enable him/her to develop constructive hope and active interest in life. Parole is granted to convicts in case of emergent situations like death or serious illness of father, mother, brother, sister, spouse and children and also on account of marriage of brother, sister and children.

7. In terms of the Rules, a convict who is entitled to furlough/parole can be called upon to execute the bond, having regard to the nature of the offence committed by him/her and also having regard to his/her financial status. Calling upon a poor convict to execute a bond in the sum of Rs. 1,00,000/- while granting furlough/parole would frustrate the very purpose of the legislation enacted by the State Government regarding grant of furlough/parole. At the same time, it is to be ensured that a convict in a serious offence who has been granted furlough/parole does not jump furlough/parole and stringent and appropriate conditions must be imposed on him. That is precisely the reason why this Court took note of the fact that several convicts who were granted furlough/parole jumped the furlough/parole and directed the State Government to take appropriate steps to ensure that henceforth convicts who are granted furlough/parole do not jump furlough/parole. But, this fact, by itself would not entitle the State Government or the Committee constituted by the State Government to impose blanket condition, calling upon all the convicts to execute bonds in the sum of Rs. 1,00,000/- (Rupees only lakh only).

8. That apart, the-Committee is not entitled to decide the bond amount, although it is entitled to lay down broad parameters which are to be taken into consideration while considering the grant of furlough/parole, in terms of the directions given by this Court. In terms of the Rules, it is the Inspector General of Prisons who has to fix the bond amount.

9. Therefore, the Inspector General of Prisons who is the Competent Authority to grant furlough/parole is directed to take into consideration the nature of offence/

offences committed by the convict, his/her financial status and other relevant considerations while considering the application for furlough/parole and pass appropriate orders in terms of the Rules.

10. Coming to the facts of the present case, considering the financial status of the petitioner, in my opinion, the interest of justice would be served by reducing the bond amount to Rs. 25,000/-.

11. Accordingly, the impugned order dated 26th October, 2012 is modified and the bond amount is reduced to Rs. 25,000/- from Rs. 1,00,000/-. All other conditions imposed by respondent No. 2 shall remain. Writ petition stands disposed of. Rule is made absolute in the aforesaid terms.