
(2013) 04 BOM CK 0140
In the Bombay High Court
Case No : Criminal Writ Petition 36 of 2013

Mr. Bostiao @ Sebi Rodrigues

APPELLANT

Vs

State of Goa and Another

RESPONDENT

Date of Decision : 17-04-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 325, 34, 452

Citation : (2013) ALLMR(Cri) 2510

Hon'ble Judges : R.P. Sondurbaldota, J

Bench : Single Bench

Advocate : Vijita Poulekar, for the Appellant; S.R. Rivonkar, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

R.P. Sondurbaldota, J.—Rule, made returnable forthwith. Petition is taken up for final hearing by consent of the Parties.

2. The petitioner herein is serving sentence of life imprisonment for the offence punishable under Sections 302, 325 and 452 read with Section 34 of I.P.C. He has completed over 12 years of sentence during which period he has been released on parole on four occasions and on furlough on five occasions. On 4th February, 2013 he filed an application for grant of parole for a period of 30 days on the ground that his mother has to undergo surgery of Carpal Tunnel Syndrome(Bilateral). That application came to be rejected by Inspector General of Prisons on the ground that his conduct in jail is not satisfactory since he has been punished along with other inmates from cell No. 13 in terms of Rule 358(a) (1) of Goa Prisons Rules, 2006 and on the ground that there was no emergent situation for releasing the petitioner on parole.

3. Ms. Poulekar, learned counsel for the petitioner submits that his mother had undergone a similar surgery on 16th January, 2013 when she was attended to by his brother who is also undergoing sentence for the same offence. The brother

had been at that time released on parole to attend to the mother. The third brother of the petitioner is also a convict and undergoing the sentence for the same offence. Two other brothers of the petitioner are stated to be residing abroad and one brother residing in Goa is unable to manage the situation on his own.

4. Mr. Rivonkar, learned Public Prosecutor does not dispute that the petitioner had been earlier released on parole and furlough and had returned to prison in time. He however points out that the petitioner has been held guilty of a prison offence for which he has been subjected to minor punishment of formal warning u/s 358(a) of the Goa Prisons Rules, 2006.

5. The prison authorities had found two packets of biddi and ear phones in cell No. 13 where petitioner is kept along with some other convicts. The order dated 16th January, 2013 issuing formal warning to the petitioner shows that the prison authorities have not been able to find out as to who had brought the prohibited articles disclosed any information. Since there were several other prisoners also in the same cell, mere finding of prohibited articles which are not very serious by themselves, the petitioner should not have been denied parole to attend to his mother who has to undergo an operation.

6. The petition is allowed. The petitioner shall execute personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the Superintendent of the Jail. Rule is made absolute in terms of prayer clause (a).