

(2011) 08 BOM CK 0066

In the Bombay High Court

Case No : Criminal Writ Petition No.79 of 2011

Shri Mahesh Kagi, Prisoner No. 23, Presently serving
sentence at Central Jail Aguada, Through his wife Smt. Lalita
M. Kagi

APPELLANT

Vs

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

RESPONDENT

Date of Decision : 11-08-2011

Acts Referred:

Goa Childrens Act, 2003 — Section 8(2)
Penal Code, 1860 (IPC) — Section 376

Citation : (2012) BomCR(Cri) 559

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

Bench : Single Bench

**Advocate : Smita S. Gawas, for the Appellant; C.A. Ferreira, Public Prosecutor,
for the Respondent**

Judgement

A.P. Lavande, J.—Heard Ms. Gawas, Learned Counsel for the petitioner and Mr. Ferreira, learned Public Prosecutor for the respondents.

2. Rule By consent of the Learned Counsel heard forth-with.

3. By this petition, the petitioner challenges condition imposed by the respondent no.2 in order dated 1/6/2011 granting furlough to the petitioner. According to the petitioner, the condition imposed by respondent no.2 calling upon the petitioner to execute a personal bond in the sum of Rupees one lakh with one surety in the like amount by giving cash or otherwise is patently illegal and unreasonable in as much as the petitioner prior to his arrest for the offence punishable u/s 8(2) of the Goa Children's Act 2003 read with Section 376 of I.P.C was doing labour work and was earning Rs. 2000/- per month. It is therefore the case of the petitioner that the petitioner is not in a position to furnish personal bond in the sum of Rupees one lakh or surety in the like amount.

4. According to the Learned Counsel for the petitioner, the condition imposed is

patently unreasonable which deprives the petitioner's right to avail furlough which has been held to be a substantial right of a convict.

5. Mr. Ferreira, learned Public Prosecutor for the respondents fairly concedes that the bond amount is excessive and therefore a reasonable bond amount be fixed.

6. Considering that the petitioner who was a labourer and was earning Rs. 2000/- per month prior to his arrest, the bond amount is reduced from Rupees one lakh to Rs. 10,000/- (Rupees ten thousand only). Accordingly, the petitioner to furnish personal bond in the sum of Rs. 10,000/- instead of Rupees one lakh with one surety in the like amount by way of cash or otherwise.

7. Rule is made absolute in above terms. Rest of the terms are not interfered with since there is no challenge.

8. The petition stands disposed of.