

THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 41 OF 2017

Kaushal Kumar,
Prisoner No.180/2015,
Presently serving
sentence at Central Jail,
Colvale, Goa.

..... Petitioner

V e r s u s

STATE OF GOA,
through Superintendent of Central
Jail, Colvale,
Colvale, Bardez, Goa.

2. PP High Court

.... Respondents

Mr. T. George, Advocate for the Petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the Respondents.

**CORAM: ANOOP V. MOHTA &
C. V. BHADANG, JJ.
DATE: 8TH March, 2017.**

ORAL JUDGMENT:

Rule, made returnable forthwith. The learned Public Prosecutor
waives service for the respondent. Heard finally by consent of the parties.

2. The challenge in this petition is to the part of the order dated

20/2/2017 passed by the first respondent under the Goa Prisons Rules 2006, whereby, while granting an application for release of the petitioner on parole, the petitioner has been inter alia directed to furnish a bond in the sum of Rs.1.00 lakh with one surety in the like amount or give cash security for the said amount.

This is subject to the condition that the petitioner shall reside at the address given by him in his application i.e. C/o Dr. Braj Bhushan, 283/701/162, Premwati Nagar, Garhi Kanoura, Lucknow, Uttar Pradesh-226011 and shall not go beyond the limit of the said District without the permission of the Director General of Police of the State of Uttar Pradesh, or such officer as the Director General of Police may appoint in this behalf.

3. It is submitted by the learned counsel for the petitioner that the petitioner who is undergoing sentence in prison, has no means to furnish the bond of such an exorbitant amount, which has the effect of denial of parole.

4. The learned Public Prosecutor submits that the petitioner is a resident outside the State of Goa and in order to ensure that the petitioner reports back after the expiry of the period of parole and to ensure compliance with the other conditions of his release, the amount of the bond has been fixed.

5. We have considered the rival circumstances and the submissions made. It is trite that the amount of the bond which is required from the convict, has to be fixed by taking all the circumstances into consideration and the amount cannot be arbitrary or exorbitant so that it has the effect of denial of the benefit which a convict otherwise can avail. In the present case the only circumstance which is urged on behalf of the respondent is that the petitioner is hailing from Uttar Pradesh and there is likelihood of he not reporting back after the expiry of the parole. We are not inclined to accept the submission. Such apprehension has to be based on objective circumstances, for instance, the previous instances where the petitioner has not so reported after the expiry of the parole/furlough. There are no circumstances to support such an apprehension. We find that the petitioner can be directed to furnish a bond in the sum of Rs.15,000/- (Rupees Fifteen thousand only), which will adequately take care of the situation. In the result the following order is passed:

ORDER:

- (i) The impugned order is modified to the extent that the petitioner shall be released on parole on furnishing a bond in the sum of Rs.15,000/- with one solvent surety in the like amount.
- (ii) In the event the surety furnished by the petitioner is not a local surety, the same shall be got verified from the police station of the concerned District/State.

- (iii) The rest of the conditions of the order are maintained.
- (iv) The petition is disposed off in the aforesaid terms.

C. V. BHADANG, J.

ANOOP V. MOHTA, J.

ap/-