

CRIMINAL WRIT PETITION NO.4/2002

Peter Menon,  
convict no.774,  
Central Jail Aguada,  
Singerim, Bardez, Goa.

... Petitioner.

versus

1. State of Goa, and

2. Inspector General of Prisons,  
Collectorate of North Goa, ... Respondents.

Shri A. B. D'Sa, advocate for the petitioner under  
Legal Aid Scheme.

Shri V.P. Thali, Additional Advocate General with Ms.  
S. Linhares, Addl. Government Advocate, for respondents  
no.1 and 2.

CORAM: C. K. THAKKER, C.J. &  
P. V. HARDAS, J.

DATE: 2nd April, 2002.

ORAL JUDGMENT (Per Thakker, C.J.)

Rule. Shri V.P. Thali, learned Additional  
Advocate General waives service of notice on Rule for the  
respondents. In the facts and circumstances of the  
matter, the matter is taken up for final hearing today.

2. This petition is filed by the  
petitioner/prisoner through jail, to grant him parole,  
instead of insisting on a personal bond of Rs.50,000/-  
only in cash, in advance, with one surety of the like  
amount.

3. At the time when the notice was issued,

Shri Arun B. D'Sa, was requested to appear as Amicus Curiae. Today we have heard learned counsel for the parties.

4. Learned counsel for the petitioner submitted that the petitioner/prisoner was convicted under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985. So far as the substantive sentence is concerned, he has already undergone the sentence and now he is undergoing sentence in lieu of payment of fine. He also submitted that in similar cases, other prisoners were ordered to be enlarged on parole, on furnishing a personal bond of Rs.10,000/- only in cash, in advance, with one surety of the like amount. It was, therefore, submitted that a similar treatment may be given to the petitioner/prisoner.

5. Learned Additional Advocate General on behalf of the respondents submitted that the case of the present petitioner/prisoner is not similar to the other cases, in as much as so far as the other prisoners are concerned, in those cases the fine imposed was of Rs.1,00,000/-, whereas in the case of the petitioner/prisoner, it was Rs.3,00,000/-. Moreover, all those prisoners belong to this State, but the petitioner/prisoner belongs to Kerala State. In the

light of the above facts, an onerous condition was imposed on him, which cannot be said to be illegal or ultra vires.

6. In our opinion, when the petitioner/prisoner has already undergone substantive sentence and is in jail in lieu of non-payment of amount of fine and when other prisoners are ordered to be enlarged on parole on their furnishing an amount of Rs.10,000/- in cash, in advance, with one surety of the like amount, in our opinion, the ends of justice would be met if similar treatment is given to the petitioner/prisoner.

7. Accordingly, the petition is partly allowed. The Order passed by the Inspector General of Prisons, Panaji, Goa, dated 19th October, 2001, is modified to the extent that the petitioner/prisoner will be enlarged on parole for thirty days on his furnishing a personal bond of Rs.10,000/- (rupees ten thousand only) in cash, in advance, with one surety of the like amount. Rule made absolute in the above terms. No costs.

C. K. THAKKER, C.J.

P.V. HARDAS, J.