

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 162/2018
Mandeo Chaudhur
Vrs.
The D.M. Saran

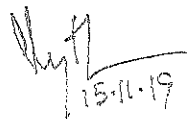
ORDER

The instant appeal petition is directed against the impugned order passed by District Magistrate, Saran in Arms Licence No. 44/2017 on 03.07.2018.

The brief facts of the case are that the appellant Mandeo Chaudhur S/o Rameshwar Chaudhur, R/o Vill-Pandeypur, P.S.-Baniyapur, Dist-Saran filed an application on 14.09.2016 before District Magistrate, Saran for grant of an arms licence for Rifle/Pistol. Thereafter, the licencing authority, the D.M. Saran called for a report from S.P. Saran. The S.P. Saran vide letter No. 284/confi. dated 14.01.2017 sent a detailed report to D.M. Saran in the matter. After that the learned D.M. heard the case and finally vide order dated 03.07.2018 rejected the prayer of grant of arms licence solely on the ground that there was no specific report regarding threat perception to the appellant or his family in the police report and further if arms licence are granted benevolently there is every possibility that there would be enough apprehension of rise of domestic and social violence. Feeling aggrieved by the said rejection of the application, the appellant has preferred the instant appeal before this Court.

Heard the learned counsel for the appellant and learned Addl. P.P.

The learned counsel appearing on behalf of the appellant while assailing the impugned order submitted that the same is bad in law and is also based on surmises and conjectures. He further argued that the appellant being a reputed person of society and at present he is elected Mukhiya of Gram Panchayat Raj Karhee in Baniyapur block and also engaged in private business for which he has to travel frequently with cash. The learned counsel further submitted that the appellant faces constant threat to his life and property from persons who are inimical to him and it was for that reason he filed an application for grant of licence for rifle but the learned D.M. without considering the threat perception of the appellant refused to grant arms licence. The learned counsel also submitted that during pendency of the application for consideration before D.M. Saran an attack was made on the appellant and the appellant suffered bullet injuries for which he had to rush in PMCH for treatment on 04.10.2016 and subsequently on FIR was lodged against these persons who had fired vide Baniyapur P.S. case No. 279/2016 dated 04.10.2016 u/s 307 and 120(B) of IPC. He further said that this fact was raised before the learned D.M. and copies of FIR was filed but the learned D.M. did not consider the same and even did not take pain to record reasons for not considering the same. The learned counsel also said that the in police report it was mentioned that a case vide Baniyapur P.S. case No. 46/2011 was filed against the appellant but the fact is that the appellant has been requited from the said case (Tr. No. 581/18) by order dt. 14.07.2018 passed by National Lok Adalat. He lastly said that the appellant fully deserve to be granted an arms licence for the reason that there is constant threat to his life and property to the appellant. The learned counsel lastly prayed that the impugned order of D.M. Saran is fit to be set aside as the same is illegal, arbitrary and the same has been passed without considering of all the material facts available on record.


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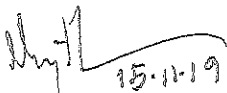
The learned Addl. P.P. appearing on behalf of respondent, on the other hand opposed the arguments forwarded by the learned counsel for the appellant and submitted that the impugned order is just, proper as there is no specific report by police regarding any specific instance of threat to the life and property of the appellant.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the appellant's application for grant of an arms licence has been rejected on extraneous consideration rather than on appropriate consideration of the material facts of the case. The claim of the appellant is that the appellant being a Mukhiya on being apprehending threat to his life, filed an application for arms licence and during pendency of consideration of his said application he suffered bullet injuries from same enemies and for which a case was also lodged against same local person vide Baniyapur P.S. case No. 279/16 but in spite of that the licencing authority the D.M. refused to grant the licence. His other plea is that his said application has been rejected on erroneous consideration. These pleas of the learned counsel seem to be acceptable. It is almost settled that arms licence is granted on the subjective satisfaction of the licencing authority. In the instant case, the appellant apprehending danger to his life sought an arms licence and during pendency of his application he also suffered a deadly attack, but these facts have not been considered by the learned D.M. and even nothing has been recorded in the impugned order about the said facts. In the instant case it is quite obvious that the D.M. Saran acting as licencing authority passed a casual order rejecting the prayer for grant of licence without considering all aspects of the case appropriately. In fact, lack of threat perception merely be one reason for refusal of licence but the reason set forth by the appellant for grant of arms licence should not have been taken casually rather it needs appropriate consideration in view of the fact that the appellant seeks licence for his safety and security of his life and property.

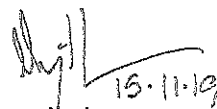
For the aforementioned reasons, the impugned order of D.M. Saran is not sustainable and hence the same is set aside. The case is remitted back to D.M. Saran for passing a fresh reasoned order after making a proper assessment of threat perception of the appellant and affording opportunity of hearing to the appellant.

With the aforesaid observations and directions, the instant appeal petition is disposed of.

Dictated and Corrected by me.



Commissioner
Saran Division, Chapra.



Commissioner
Saran Division, Chapra.