

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 97/2017
Kali Pd. Pandey
Vrs.
The State of Bihar
ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Gopalganj on 03.03.2017 in New Arms case No. 15/2017 whereby and whereunder the appellant's application for grant of Arms licence with respect to N.P. Bore Pistol/Revolver has been rejected.

The brief facts of the case are that appellant Kali Pd. Pandey S/o Late Ram Ekbal Pandey, R/o Vill-Bhoj Chhapar (Ramjita), P.S.-Salempur, Dist-Gopalganj filed an application before the licencing authority, D.M. Gopalganj for grant of an Arms license. Thereafter, a report was called for from S.P. Gopalganj which was sent vide letter No. 6886/confi. dt.17.11.2016 in which it has been specifically mentioned that the appellant was an accused in Kuchaykot P.S. case No. 91/82 dt. 24.08.1982 u/s 302/34 IPC. Thereafter, the learned D.M. finally heard the matter and rejected the said application of the appellant.

Feeling aggrieved by and dissatisfied with the aforementioned order passed on 03.03.2017 the petitioner has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant, at the very outset of his arguments, submitted that the impugned order is bad in law and the same is also not maintainable in the eyes of law. He further said that the impugned order is cryptic and arbitrary in nature and in fact the same has been passed in mechanical way which is misconceived also. He further assailed the impugned order and submitted that the said order is not a reasoned and speaking order because no convicting reasons have been assigned for the rejection of the application which is also against the relevant section of the Arms Act. The learned counsel further said that the learned D.M. Gopalganj has not appreciated that there is nothing adverse against the appellant in the police report. He also said that as the appellant and his family members are facing threats, terror, perceiving grave and imminent threats by the anti-social elements and criminals to the life and property therefore, arms licence is badly needed to the appellant for protection of life and property. The learned counsel further submitted that the appellant being a responsible politician and he earlier remained as M.P. and MLA and now he is general secretary of a leading political party namely Lok Janshakti Party and now in charge of party affairs in the State of U.P. he needs a licence for Revolver/Pistol for his safety. He further submitted that the S.P. Gopalganj has submitted a misconceived report in which real facts have been concealed. The fact is that, although, the appellant was an accused in Kuchaiykot P.S. case No. 91/82 but he has been acquitted from the said case vide order passed in S.T. No. 55/85-20/2005 arising out of the said police case. In support of his said claim he placed the Xerox copy of the order passed by the trail Court. He lastly submitted that keeping in view, the political status of the appellant, the learned D.M. ought to have considered the case of the appellant. The learned counsel further stated that the appellant wants a third arms licence only with a view that as he has become aged person, he can not carry the big arms and if he gets licence, the other two arms held by him would be transferred to his son and daughter-in-law respectively. He also argued that as the impugned order suffers from the vice of arbitrariness, the said order is fit to be set aside and this appeal petition be allowed.



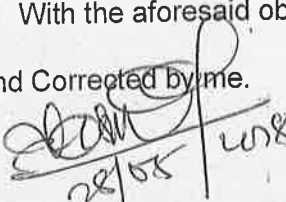
The learned A.P.P. appearing on behalf of the state, while opposing, the arguments advanced by the learned counsel for the appellant, submitted that as the appellant is already possessing two weapons which is sufficient for his protection the need of third weapon is not necessary. In fact there is no need of any another arms for the said purpose. He also said that there is no specific report regarding any incident of threat of life and property to the appellant in the police report. As such the appellant does not deserve to be considered for the grant of licence for a third weapon. He also submitted that the learned D.M. Gopalganj has passed a reasoned and speaking order having no scope of interference.

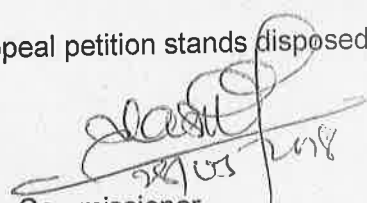
Considering the facts and circumstances of the case, material available on records and on going through the arguments made by the parties, it appears that the appellant's application for grant of licence has been refused on the ground that as the appellant has already holding licence for two weapons, there is hardly any need for a third licence to him. It is also seen that the appellant's case is somehow different from the general case. The appellant Ex-M.P. and M.L.A. and even now he is the general secretary of the Lok Janshakti Party. In fact the appellant wants a third licence only with a view that due to his old age he could not be able to carry big arms for his safety and security. It is on this reason, the appellant wants a licence for Revolver/Pistol. It is also important to mention here that once licence for Revolver/Pistol is granted to him he would be able to transfer his arms like Rifle/Gun to his son and daughter in-law. This plea of the appellant seems to be acceptable to some extent. The learned D.M. should have considered the reasons cited by the appellant for the need of third licence. It is also seen that the criminal case like Kuchaykot P.S. case No. 91/82 u/s 302/34 IPC in which the appellant was a named accused but from the said case he has been acquitted in session trial as such on that ground the claim of the appellant should not have been rejected. Even the relevant provisions of the Arms Act does not debar a person from holding three non-prohibited arms at a time. As such the appellants case has some merit and his case needs reconsideration in view of the aforementioned position.

In that view of the matter, the impugned order of the D.M. Gopalganj dt. 03.03.2017 is set aside and the case is remitted back to the D.M. Gopalganj for a fresh consideration and to pass fresh order in accordance with law.

With the aforesaid observation and direction this appeal petition stands disposed of.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.