

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-5731-2013

Date of decision: 31.03.2015

Sulakhan Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

Mr. A.P.S. Gill, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner, by way of instant petition under Section 482 Cr.P.C. challenges the order dated 09.11.2011 (Annexure P-3) passed by learned Addl. Sessions Judge, Amritsar, whereby application of the petitioner for release of double barrel gun 12 bore and his licence No.60614-96 was dismissed. Petitioner also challenges the order dated 02.01.2013 (Annexure P-5) whereby his application for reviewing the above order dated 09.11.2011 was dismissed.

Notice of motion was issued and pursuant there to reply by way of affidavit dated 11.05.2014 was filed. Thereafter, affidavit dated 12.12.2014 along with Annexures R-1 to R-3 was also filed.

Learned counsel for the petitioner submits that learned Addl. Sessions Judge fell into serious and factual error while recording in the impugned order that there was a report of Addl. P.P. filed on record, opposing the application of the petitioner. He further submits that as a matter of fact, there was no such report of Addl. P.P. available on record of

the case file. He next contended that once the petitioner has been released after compounding of offence and his sentence period has been ordered to be reduced to already undergone, by this Court vide order dated 04.05.2010 in CRA-S-1714-SB-2004 (Sulakhan Singh Vs. State of Punjab), petitioner was entitled for getting his gun and licence back. He prays for allowing the present petition.

Learned counsel for the State, on instructions from Inspector Gurvinder Singh, Police Station Patti, District Tarn Taran, submits that as per the report (Annexure R-3) submitted by S.H.O., Police Station Patti at page 39 of the paper book, the local police has got no objection in case gun is ordered to be released in favour of the petitioner. Referring to para 5 of the affidavit dated 12.12.2014, learned counsel for the State submits that as a matter of fact, there was no report of Addl. P.P., it was never sought by the learned Addl. Sessions Judge, Amritsar.

Having heard learned counsel for the parties and after careful perusal of the record of the case, this Court is of the considered opinion that learned Addl. Sessions Judge, Amritsar misdirected himself while recording the factually incorrect observation about the report of Addl. P.P. It is so said because neither the report was ever sought nor it was filed by the Addl. P.P. It seems to be the basic reason for passing the impugned order dismissing the application of the petitioner for returning his double barrel gun 12 bore and his arms licence.

Learned counsel for the State is also fully justified to refer to Annexure R-3 wherein the Station House Officer, Police Station Patti has already made it clear that the local police has no objection, if the licensed gun of the petitioner is ordered to be released.

In view of the above, impugned order dated 09.11.2011 (Annexure P-3) as well as order dated 02.01.2013 (Annexure P-5) passed by the learned Addl. Sessions Judge, Amritsar are hereby set aside. Consequently, double barrel gun 12 bore owned by the petitioner as well as his arms licence No.60614-96 are directed to be released in his favour on superdari, in accordance with law.

With the abovesaid observations made and directions issued, present petition is allowed.

[RAMESHWAR SINGH MALIK]
JUDGE

31.03.2015
vishnu