

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.14 OF 2016

Rajesh Pratap Singh Thakur ..Petitioner

Versus

The State of Maharashtra ..Respondent

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Mr.Vijay Sharma, advocate for petitioner

Mr.R.B.Bagul, APP for respondent - State

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CORAM : M.T. JOSHI, J.

DATE : FEBRUARY 09, 2016

PER COURT :

Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally.

2] The F.I.R. in the case would show that it was filed against some unknown assailants. The complainant had two security guards including the present petitioner. In the alleged incident dated 26th February, 2011, the present petitioner had fired two rounds in the air from his licensed gun

to disperse the unknown assailants. The crime was registered against the unknown assailants. The Investigating Officer has seized the gun upon surrender of the same by the present petitioner.

3] An application was filed by the present petitioner for custody of the said gun before the learned Judicial Magistrate F.C. which, however, came to be rejected. Thereafter, a revision application was filed by the petitioner in the Sessions Court. The same was also dismissed by the learned Addl. Sessions Judge.

4] Thereafter, the petitioner filed another application for custody of the gun before the learned Judicial Magistrate F.C. It was also rejected. In the next of the revision application being Criminal Revision Application No.20 of 2015, though the learned Addl. Sessions Judge observed that the said gun was not a property in the alleged offence, the said revision application

came to be dismissed on the grounds that the earlier revision application of the present petitioner was dismissed and therefore, second revision application was not maintainable and that the petitioner can very well file a petition under Section 482 of the Code of Criminal Procedure in this Court.

5] perusal of the entire record would show that at the most, the licensed gun of the petitioner would have evidentiary value. It is not alleged that any offence was committed with the help of the said gun. The charge sheet is yet to be filed. In that view of the matter, the licensed gun of the petitioner will have to be returned to the petitioner.

6] In the circumstances, the following order :-

A] The Criminal Writ Petition is hereby allowed.

B] The Investigating Officer/concerned learned Judicial Magistrate F.C. to return the gun in question, to the present petitioner upon verification of the license, if any.

C] Upon getting custody of the gun, the petitioner is directed to produce the same before the concerned Court or before the Investigating Officer as and when required during trial or for further investigation, if any.

D] Rule is made absolute in the above terms. The petition stands disposed of accordingly.

[M.T. JOSHI, J.]