

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25521 of 2016

Arising Out of PS. Case No.-10 Year-2014 Thana- RAXAUL District- East Champaran

Ashutosh Kumar son of Late Akhileshwar Prasad resident of Village-
Seramba, P.S.- Sakurabad, District- Jehanabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharendra Singh
For the Opposite Party/s : Mr. Sri Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 21-08-2018 This petition has been filed under Section 482 Cr.P.C.

for quashing the order dated 5.8.2015 passed by Judicial
Magistrate 1st Class, Raxaul, Motihari in Tr. no. 1928 of 2015
(Raxaul P.S. case no. 10 of 2014) by which learned Magistrate
has rejected the application dated 8.12.2014 filed by the
petitioner for release of the DBBL gun vide Gun no. 26875,
licence no. 7/2000 (Madhepura P.S.) P.R. No. 610 (Jehanabad)
in favour of the petitioner.

Heard learned counsel for the petitioner and the State.

In the written report which has been filed by SHO of
Raxaul P.S. it is alleged that one double barrel gun was
recovered from the possession of petitioner. It is further alleged
that petitioner produced licence before the police but police
confiscated the aforesaid gun on the pretext that licence of the



said gun appeared to be forged one.

The petitioner has filed petition in the learned Court below for release of the said gun. A report was called from the Raxaul police station by the learned Court below as mentioned in the impugned order. The police has mentioned in the report that it has no objection if the gun is released in favour of petitioner. The learned court below has refused to release the gun in favour of the petitioner on the ground that it is a material exhibit in the case.

This Court is of the view that continuance of the double barrel gun in the custody of the police will cause damage to the aforesaid gun. Therefore, the learned Magistrate was not justified in refusing to release the gun. The police has already sent report that the same can be released in favour of the petitioner.

Therefore, the impugned order dated 5.8.2015 passed by Judicial Magistrate 1st Class, Raxaul, Motihari in Tr. no. 1928 of 2015 (Raxaul P.S. case no. 10 of 2014) is hereby set aside.

The learned Magistrate is directed to release the aforesaid double barrel gun in favour of petitioner after proper verification of documents including the licence on furnishing



bond of Rs. 50,000/- (Fifty thousand) with two sureties to its own satisfaction. The petitioner will file affidavit in court below that he will produce the gun as and when required by the Court and will not dispose of the same during pendency of the case. The petitioner will also mention in the affidavit that he will not misuse the aforesaid gun in any manner during the pendency of the case.

This Cr. Misc. application is, accordingly, allowed.

(Sanjay Priya, J)

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