

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15762 of 2019

Arising Out of PS. Case No.-1224 Year-2018 Thana- SASARAM NAGAR District- Rohtas

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PRABHU PRASAD Son of Late Moti Prasad Resident of Mohalla- Jani
Bazar, P.S.- Sasaram (Town), District - Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.D.K. Sinha, Sr. Advocate

For the Opposite Party/s : Mr.Yogendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 14-03-2019 Heard learned Seniour counsel appearing for the petitioner
and learned APP appearing for the State.

The petitioner is apprehending arrest in a case registered
for the offences punishable under Sections 25(1-a) and 35 of the
Arms Act.

The prosecution case got initiated on the basis of written
report dated 20.09.2018 submitted by Harivansh Singh, A.S.I.
Sasaram Police Station to the Station House Officer, Sasaram
Town Police Station is to the effect that on 20.09.2018 at 10.00
A.M., during patrolling, the informant received an information



to the effect that large sized swords are being sold in the shop of Prabhu Prasad, the petitioner, whereupon a raid was laid. Consequently, 34 pieces of large and small sized of swords were recovered.

It is submitted by learned Sr. counsel for the petitioner that though the sword comes within the definition of Arms of the Arms Act, but it cannot be treated under the category of prohibited or restricted arms. It is further submitted that the seizure list does not bear the signature of the petitioner and there is no independent witness other than the police personnel and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State that swords in huge quantity has been recovered from the shop of the petitioner.

It appears that neither the seizure list nor does the FIR suggest the size of the blade of seized swords. Any weapon apart from the fire arms under Section 2 (c) of the Arms Act can only be treated as “arms” under the definition of the Arms Act, i.e., “arms” means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, sharp-edged and other deadly weapons, and parts of,



and machinery for manufacturing arms, but does not include articles designed solely for domestic or agricultural uses such as a lathi or an ordinary walking stick and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons. Moreover, there is nothing on record to suggest that there is any notification under Section 4 of the Arms Act requiring licence for acquisition or possession or carrying of arms other than fire arms.

Considering the fact that the size of the blade of seized swords has not been given either in the FIR or in the seizure list for treating the seized sword as arms under Section 2(c) of the Arms Act nor any notification under Section 4 of the Arms Act requiring licence for acquisition or possession or carrying of sword on record, moreover, the seizure list does not bear the signature of the petitioner coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Rohtas at Sasaram in



connection with Sasaram (Town) P.S. Case No.1224 of 2018,
subject to the conditions as laid down under Section 438(2) of
the Cr.P.C.

(Dinesh Kumar Singh, J)

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