

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15938 of 2019

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

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HARMIT SINGH @ DABLU SINGH Son of Late Yogendra Singh Resident
of Mohalla- Dhangola 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.Sada Nand Roy

For the Opposite Party/s : Mr.Rabindra Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 14-03-2019 Heard both sides.

The petitioner apprehends his arrest in Sasaram Town
P.S. case No. 1124 of 2018 registered under Section 25(1)(a), 35
of the Arms Act.

The informant, A.S.I. of town P.S., got information
that big swords are being sold in the shop of Prabhu Prasad and
Harmit Singh @ Dablu Singh, the petitioner. The police raided
the shop of Prabhu Prasad and recovered 59 pieces of small and
big swords. From search of shop of the petitioner 34 pieces of
small and big swords are recovered.

The learned counsel for the petitioner submits that
from perusal of Section 2 of the Arms Act, 1959 it appears that
sword or any sharp edged weapon or pointed weapon are
described as weapons but in view of provision as contained in



Section 4 of the Act the option is left to the Central Government. If the Central Government is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest that the acquisition, possession or carrying of arms other than firearms should also be regulated, it may, by notification in the Official Gazette, direct that this Section shall apply to the area specified in the notification and thereupon no person shall acquire, have in his possession or carry in that area arms of such class or description as may be specified in that notification unless he holds in this behalf a license issued in accordance with the provisions of this Act and the rules made thereunder. It is submitted that no such notification is issued by the Central Government notifying sale of such weapons such as small or big swords, sharp edged weapons such as Tangi, Farsa which are commonly used by the villagers for their own defence and, therefore, the petitioner has not committed any offence in absence of such notification.

Having considered the facts that 34 small and big swords are recovered from the shop of the petitioner but selling of such small and big swords are not prohibited by any notification, as provided under Section 4 of the Act, the petitioner, above named, in the event of his arrest/ surrender



before the court below within a period of four weeks from the date of receipt/ production of a copy of this order is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Rohtas at Sasaram in connection with Sasaram (Town) P.S. case No. 1224 of 2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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