

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2459 OF 2021

Sushil Tukaram Tawade

Petitioner

versus

The Divisional Commissioner,
Konkan Division, and others

Respondents

Mr.Kuldeep Patil i/by Ms.Heena Suvarnakar, Advocate for petitioner.
Mr.A.R.Patil, APP, for Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th August 2022

PC :

1. The petitioner challenges the order dated 7th August 2017 passed by respondent no.1 in Criminal Appeal No.25 of 2017 and order dated 31st March 2017 passed by respondent no.2 rejecting arms license of petitioner.

2. Petitioner had applied for arms license for self protection and for protection of his agricultural property. Along with application the requisite documents for procuring arms license were annexed to the application. The application was rejected by respondent no.2 vide order dated 31st March 2017. The said order was challenged by preferring appeal u/s.18 of Arms Act before respondent no.1. The appellate authority rejected the appeal by order dated 7th August 2017 and confirmed the order dated 31st March 2017 passed by District Magistrate, Ratnagiri. Petitioner then filed revision application before Government of Maharashtra which was disposed off on the ground that it was not maintainable vide order dated 25th March 2021.

3. The grounds urged by the petitioner are as follows :-

(a) The authorities have committed error in refusing permission to grant license for arms;

(b) The respondents have not assigned cogent and satisfactory reasons for rejecting the application for arms license;

(c) The Superintendent of Police, Ratnagiri by letter dated 7th February 2017 gave no objection for issuing arms license for protecting his agricultural land on terms and conditions;

(d) The respondents have failed to appreciate that Divisional Forest Officer, Chiplun had ascertained the fact that damage was caused to the agricultural edge and plantation by animals;

(e) The petitioner had undergone proper training for handling arm. Petitioner had undergone training of safe arm course relating to handling of weapons and the safety rules of shooting;

(f) The respondents have ignored the complaint filed by petitioner with regards to apprehended loss and damage to his farm by wild animals;

(g) The documents on record clearly demonstrate that claim of the petitioner is genuine and he deserves the arm license for protection.

4. Learned APP submitted that application for license has been rejected by authorities assigning proper reasons. The order dated 31st March 2017 mentions that report is submitted by Executive Magistrate, Rajapur and Forest Officer that petitioner should not be given license for agricultural protection. The appellate authority has also rejected the prayer for license by giving reasons. Hence the petition may be rejected.

5. Perused the documents on record. The report of Superintendent of Police, Ratnagiri dated 7th February 2017 indicate that petitioner has applied for Arm license for agricultural protection and the report is called for by the District Magistrate, Ratnagiri. The said letter further mentions that petitioner owns land bearing Survey Nos.145/1, 145/6 admeasuring 11 acres. The 7/12 extract of the property are on record. The applicant is permanent resident of address mentioned therein. The letter issued by Police Patil, Sarpanch is on record. The petitioner has taken training for operation of arm and certificate in that regard is enclosed. His conduct in the village is good which is evident from the certificates given by Police Patil, Sarpanch. The medical officer has issued certificate stating that petitioner is fit to use the Arm. On obtaining license, the petitioner would purchase single bore cartridge gun. He has secured place of residence for safe custody of Arm. The petitioner has undertaken to comply terms and conditions while using the arm in the event permission is granted to him. He is not connected to any political party and has no enmity with any person of the village. He is not charged in any case or involved in any case. In the land owned by the petitioner there are 410 mango trees and 35 cashew nut trees. He has agricultural land and cultivates rice and other vegetables. Hence on certain terms and conditions about not to misuse of arm, the office of Police Superintendent, Ratnagiri recommended that they have no objection for grant of license for agricultural protection. Apparently said recommendation has been ignored while rejecting the application.

6. I have perused the orders passed by authorities. In the light of

aforesaid facts, there is no reason for refusing the arm license to the petitioner. Hence, I pass following order :

ORDER

- (i) Writ Petition is allowed and disposed off;
- (ii) The order dated 7th August 2017 passed by respondent no.1 Divisional Commissioner, Konkan Division in Appeal No.25 of 2017 and order dated 31st March 2017 passed by respondent no.2 District Magistrate, Ratnagiri rejecting arms license to the petitioner, are quashed and set aside;
- (iii) Respondent no.2 District Magistrate, Ratnagiri is directed to allow application dated 24th December 2016 filed by petitioner for arms license and grant arms license to him on requisite terms and conditions.

(PRAKASH D. NAIK, J.)

MST