

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1132 OF 2020

Rajkumar Bhujangrao Dhakane

...Petitioner

Versus

1. The State of Maharashtra
2. The Commissioner of Police
3. The Inspector of Police

...Respondents

....

Mr. Dinesh P. Adsule, Advocate for the Petitioner.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 14th SEPTEMBER 2022

PC :

1. Petitioner challenges the order dated 3rd October 2019 passed by the Appellate Authority (Respondent No.1) in Appeal No. ALS 0619/A-65/Pol-9 and order dated 31st December 2018 passed by Respondent No.2 cancelling Arm License No.PGN/52/2014.

2. The petitioner applied for possessing Fire Arm (revolver/pistol) License under Section 13, chapter III of the Arms Act for self protection. The application was made in the year 2012 to Respondent No.2. After submitting the required documents and verification, the Government of Maharashtra sanctioned Arm License vide order dated 13th June 2014 to the Petitioner. The license was

issued for revolver/pistol. According to the petitioner, after receipt of the license, he had purchased pistol. The Fire Arm License was sanctioned to the Petitioner on 13th June 2014 for the period of one year. C.R. No.37 of 2015 was registered with Koregaon Police Station against the Petitioner for an offence under Sections 307, 323, 504 read with 34 of IPC. C.R. No. 38 of 2015 was also registered with the same Police Station under Section 224 of IPC. Show cause notice was issued to the Petitioner on 25th May 2015 for cancellation of Fire Arm License on the ground of registration of cases against Petitioner. He filed reply to the show cause notice on 24th July 2015 and denied the allegations. He appeared before the Licensing Authority. License was cancelled vide order dated 31st December 2018.

3. Order cancelling license was challenged before the Appellate Authority. The appeal was dismissed by order dated 3rd October 2019.

4. Learned Advocate for the Petitioner submitted that, order cancelling the license is erroneous. The Appellate Authority has mechanically confirmed the order dated 31st December 2018. The petitioner was implicated in C.R. No. 37 of 2015 at the instance of complainant, who was collecting parking charges in the area of Ruby Hall Hospital, Pune. The case of the prosecution is that, on 17th May 2015 the petitioner had refused to give parking charges. He took out

revolver and threatened the complainant and assaulted him with the butt of the revolver. It is submitted that the complainant was rude. The petitioner's son was admitted in the hospital and discharged from the hospital few minutes earlier. The complainant had abused and threatened the petitioner. Police help was sought by the Petitioner. The complainant put up barriers in front of his car and threatened him. Reliance is placed on the medical bill paid by Petitioner to the hospital for treatment of his son. The petitioner had gone to Police Station to lodge complaint. Police did not record his complaint. C.R. No. 37 of 2015 was followed by C.R. No. 38 of 2015 under Section 224 of IPC. The revolver was not used for firing. It is alleged that, the butt of revolver was used for assaulting the complainant. The petitioner had sent his complaint by email and register post to the Commissioner of Police, Pune. While deciding the application for Anticipatory Bail preferred by petitioner, this Court vide order dated 2nd July 2015 permitted the petitioner to withdraw the application. However, it was observed that, prima facie offence under Section 326 of I.P.C. is made out but not under Section 307 of IPC. Petitioner was granted bail by the learned J.M.F.C., Pune by order dated 14th June 2015. Police report submitted to the Authority does not mention that the license should not be renewed due to public security or public peace. The report

only referred to pendency of one case. The license can be revoked only if the Licensing Authority deems it necessary for the security of the public peace or for public safety. There is no finding in the present case that the Arm License is not renewed or cancelled due to security of public peace or public safety. There is no apprehension of misuse of fire arm by Petitioner.

5. Learned APP submitted that, the license was cancelled considering the fact that the petitioner was involved in two cases. The revolver was used in the crime although, there was no firing. There is no illegality in the impugned orders passed by the Authorities.

6. Apparently, the license was issued to the petitioner after being satisfied about reasons for granting it. C.R. No. 37 of 2015 and C.R. No. 38 of 2015 were registered with same police station on the same day. Petitioner was allegedly armed with license pistol. There was no firing. It appears that, in the scuffle between complainant and the petitioner, the butt of revolver was used in assaulting the complainant. The police report only indicate that, one case is registered against the petitioner. Apparently this Court had observed that, Section 307 of IPC may not be attracted. On that count, petitioner was granted regular bail by the trial Court. While cancelling the license or dismissing appeal, authorities have not

opined that the petitioner is not entitled to hold license on account of public safety. Orders passed by Respondents are required to be set aside thereby permitting the petitioner to prefer application for renewal of license and return of arm before the appropriate authority.

ORDER

- (i) The order dated 3rd October 2019 passed by respondent No.1 dismissing Appeal No.619/A-65/Pol-9 and order dated 31st December 2018 passed by respondent No.2 cancelling Arm License No.PGN/52/2014 of petitioner, are quashed and set aside;
- (ii) The petitioner would be at liberty to prefer application for renewal of license and return of arm to appropriate authority. The concerned authority shall deal with such application/s expeditiously and in accordance with law;
- (iii) The Writ Petition is allowed in above terms and stands disposed off.

(PRAKASH D. NAIK, J.)