

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

CRIMINAL APPEAL NO.1604 OF 2019

Shrivardhan Govardhansingh Tapasvi ...Appellant
Versus
The State of Maharashtra ...Respondent

Ms. Vilasini B i/b Mr. Adwait Bhonde, for the Appellant.

Ms. Veera Shinde, A.P.P for the Respondent – State.

Police Constable - Navnath H. Jagtap, Pune City, is present.

***CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.***

DATE : 6th JUNE 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives notice on behalf of respondent-State.
3. By this appeal, the appellant has sought the following substantive reliefs:-

“b) The Order dated 23/02/1994 in Sessions Case No. 51 of 1993, so far as it pertains to the direction of the Ld. Addl. Sessions

Judge, Pune to deposit the pistol of Lama Company in the custody of the District Magistrate, Pune may be quashed and set aside;

- c) This Hon'ble Court may be pleased to direct the Armoury/District Magistrate, Pune to release and deliver the Pistol of Lama Company, bearing no.859625, kept under its custody in connection with Sessions Case No. 51 of 1993 to the Appellant."

4. It is the appellant's case that his father-Govardhan Singh Tapasvi owned a licensed Pistol of Lama Company, bearing no.859625. It is submitted that the appellant's father was murdered on 22nd June 1992 and that during the course of investigation a licensed pistol was seized from the spot of the incident. Admittedly, the said licensed pistol was not used in the commission of offence. It appears that one Shivakumar Singh @ Pappu Devibaksha Singh was tried for the murder of the appellant's father. After trial, Shivakumar Singh @ Pappu was acquitted by the learned Additional Sessions Judge, Pune, vide Judgment and Order dated 23rd February 1994. The said Judgment and Order dated 23rd February 1994 is on page 13 of the aforesaid appeal. By the said Judgment and Order, the learned Additional Sessions Judge, Pune, directed that the licensed pistol of the appellant's father which was seized during the course of investigation be deposited in the armoury under the custody of District Magistrate, Pune.

5. It appears that the said pistol was a licensed pistol standing in the name of the appellant's father. It appears that after the demise of the appellant's father, the said license was transferred in the name of the appellant by the District Magistrate, Fatehpur on 15th May 2018. The said license which was extended in favour of the appellant is at Exhibit – 'C' on page 28 of the aforesaid appeal.

6. Learned Counsel for the appellant states that the said license was extended in favour of the appellant from time to time i.e. till 30th May 2021. She submits that presently, the application seeking extension of license is pending with the District Magistrate, Fatehpur. She submits that a direction be given to the concerned Authority to hand over the pistol of the appellant, on the appellant producing a valid license i.e. after the appellant gets an extension of his license.

7. Vide order dated 4th May 2022, the learned APP had sought time to take instructions from the concerned police officer, as to whether the pistol of Lama Company bearing no.859625, was in the custody of the District Magistrate, Pune. Pursuant thereto, the learned APP has tendered a

‘Factual Status Report’ of the Additional Commissioner of Police (Admn), Office of the Commissioner of Police, Pune City, in a sealed envelope. The same is opened. The said report dated 1st June 2022 is sent by the Additional Commissioner of Police (Admn), Office of the Commissioner of Police, Pune City to the learned APP. In the said report, the Additional Commissioner of Police has stated that the weapon is in safe and secure custody of the Armoury, Shivajinagar, HQ, Pune i.e. under the symbolic/notional custody of the District Magistrate, Pune. It is further stated that the said weapon will be returned to the appellant as and when this Court directs them to do so. The said report dated 1st June 2022 is taken on record and marked 'X' for identification.

8. Admittedly, as noted above, the weapon in question i.e. Pistol of Lama Company bearing no.859625, was not used in the commission of offence but was found at the spot, where the deceased was murdered. It also appears that the said pistol originally stood in the name of the appellant's father and was subsequently transferred in the name of the appellant and that the licence was extended from time to time, till 30th May 2021. We are informed that presently the appellant’s application seeking

extension of renewal of licence for the said weapon i.e. Pistol of Lama Company, bearing no.859625, is pending before the District Magistrate, Fatehpur.

9. Considering the aforesaid, we deem it appropriate to pass the following order:-

ORDER

(i) We direct the Additional Commissioner of Police (Admn), Office of the Commissioner of Police, Pune City to hand over the said weapon i.e. Pistol of Lama Company, bearing no.859625 to the appellant, only on the appellant furnishing the original extension license, issued by the District Magistrate, Fatehpur, having validity on the date when the said weapon is to be handed over.

10. Appeal is allowed in the aforesaid terms and is accordingly disposed of. Rule is made absolute in above terms.

11. All concerned to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.