

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 907 OF 2022

Nilesh Bhgwan Sambre

...Petitioner

V/s.

State Of Maharashtra And Ors.

...Respondents

Mr. Vishal A. Patil, Advocate for Petitioner.

Mrs. S.D. Shinde, A.P.P. for the Respondents-State.

CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.

DATE : 20th JANUARY, 2023.

PC.:-

. By the present Petition under Article 226 of the Constitution of India, Petitioner has impugned Order dated 10.06.2021 passed by the Divisional Commissioner, Konkan Division, Mumbai, i.e. Respondent No.4, in Appeal bearing No.Appeal/Desk/Arms-10/2021, rejecting the said Appeal and confirming the Order dated 23.09.2020 passed by the District Magistrate, Palghar, i.e. Respondent No.2, in Order No.SR-46/2020, rejecting the Application of Petitioner for renewal of his Arms Licence No. Palghar/Vikramgad/SP/27/2011/52.

2. Heard Mr. Patil, learned Advocate for Petitioner and Mrs. Shinde, learned A.P.P. for the Respondent-State. Perused record produced before us.

3. Record indicates that, Petitioner was issued Arms Licence by Respondent No.2 in the year 2011. The said Licence was subsequently renewed from time to time by the Competent Authority, i.e. Respondent No.2. As the Licence was to expire on 31.12.2019, Petitioner preferred an Application before the Respondent No.2 for its renewal. The said request was rejected by the Competent Authority by its Order dated 23.09.2020 on the ground that, there are nine offences of serious nature registered against Petitioner. The Respondent No.2 by its Order dated 23.09.2020 therefore rejected the request of Petitioner for renewal of Arms Licence.

Feeling aggrieved with the said Order dated 23.09.2020, Petitioner preferred an Appeal before the Respondent No.4. As noted earlier by its impugned Order dated 10.06.2021, the Respondent No.4 has dismissed the said Appeal.

4. Mr. Patil, learned Advocate for Petitioner submitted that, out of nine offences mentioned by Respondent No.3 in its report submitted to Respondent No.2, Petitioner has been discharged from offences at Serial Nos.2, 3, 7 and 9. That, the Petitioner is a businessman and therefore it is necessary for him to possess a weapon for his self protection. Therefore the request of Petitioner for renewal of Arms Licence may be considered sympathetically. He submitted that, both the Authorities below committed an error in not appreciating the said fact and therefore the Orders passed by them be set aside by allowing present Petition.

5. We have perused the record and in particular the report submitted by Respondent No.3 to Respondent No.2 dated 28.09.2021. In the said Report, the following offences registered against Petitioner have been mentioned.

Sr. No.	Police Station	Crime Register Number and Sections
1	Wada	C.R. No.55 of 2013, under Sections 397, 307, 326, 325, 341, 109, 120-B, 353, 504, 506, 427, 143, 147, 148 of Indian Penal Code.
2	Wada	C.R. No.322 of 2018, under Sections 195-A & 506 of Indian Penal Code.
3	Wada	C.R.No.287 of 2019, under Section 11(1)(n) of The Prevention of Cruelty to Animals Act and Sections 37(1) (3), 135 of The Bombay Police Act, 1951.
4	Wada	C.R.No.183 of 2020, under Sections 353, 341, 291, 270, 269, 143, 109 of Indian Penal Code and Sections 2, 3 & 4 of The Epidemic Diseases Act, 1897 and Sections 31(1)(3), 135 of The Bombay Police Act. 1951.
5	Andheri Police Station, Mumbai City.	C.R.No.407 of 2017, under Sections 406, 409, 420, 465, 467, 468, 471, 385, 506, 120(B) read with Section 34 of Indian Penal Code.
6	Tarapur	C.R.No.12 of 2018, under Sections 431, 336, 337 & 338 of Indian Penal Code.
7	Wangaon	C.R.No.16 of 2018, under Sections 431, 336, 337, 338 of Indian Penal Code.
8	Bhiwandi Taluka Police Station	C.R. No.238 of 2021, under Sections 141, 143, 147, 149, 294, 323, 405 & 506 of Indian Penal Code and Section 3(1)(r)(s) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
9	Vikramgad	C.R.No.32 of 2021, under Sections 307, 120(B), 143, 147, 148, 149 of Indian Penal Code and Section 3(2) (Va) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 37(1), 135 of The Bombay Police Act.

6. Even after taking into consideration the argument of learned Advocate for Petitioner that, Petitioner has been discharged from offences at Serial Nos.2, 3 and 7, according to us, those offences were not of serious nature. As far as offence at Serial No.9 is concerned, it prima facie appears that, the Petitioner has been discharged from it by the trial Court. However rest of the offences mentioned therein are undoubtedly of serious nature. Petitioner is involved in offences under Sections 325, 326, 307, 397, 353, 406, 409, 467, 385 read with Section 120-B of the Indian Penal Code registered at different Police Stations in the districts of Mumbai, Thane and Palghar. The history-sheet of Petitioner speaks for itself and requires no second opinion or certification about his inclination towards criminality in that behalf at least as of date. According to us, both the authorities below have properly evaluated the material against Petitioner in that behalf and have rejected the request of Petitioner for renewal of his Arms Licence.

7. After perusing the entire record and impugned Orders, we are of the considered opinion that, both the authorities below have not committed any error either in law or on facts while rejecting the application of Petitioner for renewal of Arms Licence.

8. Petition is devoid of merits and is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)