

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54425 of 2023

Arising Out of PS. Case No.-60 Year-2023 Thana- PATLIPUTRA District- Patna

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RAJAN KUMAR SON OF DINESH RAI RESIDENT OF PAHARPUR, P.S.
- MAHU, DISTRICT - VAISHALI, A/P- RESIDENT OF A.G. COLONY
(NEAR PARK), P.S. - SHASTRI NAGAR, DISTRICT - PATNA

... .. Petitioner/s

Versus

1. The State of Bihar PATNA
2. DHARMENDRA KUMAR CHOUDHARY SON OF LATE DURGA
NAND CHOUDHARY RESIDENT OF VILLAGE AND P.S. - RAJ
NAGAR, DISTRICT - MADHUBANI

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manisha Pandey
For the Opposite Party/s : Mr.Navin Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 09-07-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This application has been filed on behalf of the
petitioner for quashing the FIR bearing Patliputra P.S. Case No.
60 of 2023 (G.R. No. 638 of 2023) registered for the offence
under Sections 25(1-b)(a)/26 of the Arms Act.

3. As per the prosecution case, the petitioner was
caught by the traffic police along with 25 cartridges of 12 bore
and for the same Patliputra P.S. Case No. 60 of 2023 was
registered.

4. It has been submitted by the learned counsel for



the petitioner that the allegations levelled against the petitioner are false as the petitioner was carrying the cartridges on the basis of authority letter issued by its owner Thakur Vikram Singh, who is a licence holder of DBBL Gun.

5. Learned counsel for the petitioner further submits that the petitioner has shown the authority letter to the SHO, Patliputra Police Station but the same was not believed by him. It has also been submitted by the learned counsel for the petitioner that the petitioner was obeying the traffic rules and the prosecution of the petitioner is nothing but an abuse of the process of the Court and the same may be quashed.

6. The State has also filed its counter affidavit but the State has not given any reply to paragraph 6 of the petition in which the petitioner has said that the petitioner was carrying the cartridges on the basis of authority letter given by the licensed owner Thakur Vikram Singh which is permissible under Section 3 of the Arms Act, 1959.

7. Section 3 of the Arms Act, 1959 reads as under:-

3. Licence for acquisition and possession of fire-arms and ammunition.- [(1)]
No person shall acquire, have in his possession, or carry any fire-arm or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:
Provided that a person may, without



himself holding a licence, carry any fire-arm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder.

[(2) Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than [two fire-arms]:

[Provided that a person who has in his possession more fire-arms than two at the commencement of the Arms (Amendment) Act, 2019, may retain with him any two of such fire-arms and shall deposit, within one year from such commencement, the remaining fire-arm with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that sub-section after which it shall be delicensed within ninety days from the date of expiry of aforesaid one year:

Provided further that while granting arms licence on inheritance or heirloom basis, the limit of two fire-arms shall not be exceeded.]

(3) Nothing contained in sub-section (2) shall apply to any dealer in fire-arms or to any member of a rifle club or rifle association licensed or recognised by the Central Government using a point 22 bore rifle or an air rifle for target practice.

(4) The provisions of sub-sections (2) to (6) (both inclusive) of section 21 shall apply in relation to any deposit of fire-arms under the proviso to sub-section (2) as they apply in relation to the deposit of any arm or ammunition under sub-section (1) of that section.]



8. The holder of the arms license Thakur Vikram Singh has given an authority letter in favour of the petitioner for carrying the cartridges and therefore the petitioner cannot be prosecuted for carrying the cartridges and in view of the Section 3 of the Arms Act, 1959, no offence is made out against the petitioner under Sections 25(1-b)(a)/26 of the Arms Act.

9. Accordingly, this application is allowed and the FIR bearing Patliputra P.S. Case No. 60 of 2023 (G.R. No. 638 of 2023) is hereby quashed.

(Sandeep Kumar, J)

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