

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44884 of 2016

Arising Out of PS. Case No.-69 Year-2015 Thana- JAMHOR District- Aurangabad

Rajendra Paswan S/o Devaki Paswan, resident of Dhanav Tola, Itwa Bigha,
P.S.- Jamhore, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Pd. Singh, Sr. Adv.
	:	Mr. Saket Kumar Singh, Adv.
For the State	:	Mr. Binod Kumar No.3-APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

10 06-02-2025 Heard Mr. Krishan Prasad Singh, learned Senior
counsel for the petitioner and Mr. Binod No.3, learned APP for
the State.

2. The instant petition has been filed under Section 482 of Code of Criminal Procedure with a prayer to quash the order dated 28.10.2015 passed by the learned Chief Judicial Magistrate, Aurangabad in connection with Jamhore P.S. Case No. 69 of 2015 dated 32.08.2015, G.R. No. 1581 of 2015 whereby and whereunder the cognizance of the offences under Sections 144, 386, 387 of Indian Penal Code (in short IPC), Sections 25(1B)(a), 26 and 35 of the Arms Act and Section 17 of C.L.A. Act has been taken against the petitioner and others.

3. Mr. Krishan Prasad Singh, learned senior counsel

appearing for the petitioner has argued that the petitioner has been falsely roped in the alleged recovery of firearms. The FIR was recorded by a Sub-Inspector of the concerned police station and he himself started the investigation which is against the law and the informant was very interested to implicate this petitioner. It is further submitted that during the investigation Deputy Superintendent of Police, Aurangabad supervised the case and found that the recovery of alleged country-made *carbine* was not made from the possession of the petitioner rather it was recovered from the courtyard of one Chhotan Yadav and in this regard supervision note available in the case diary may be perused. Learned counsel further submits that the petitioner is a Government employee working as a technician in Railway Department and posted at Gaya, so he had no occasion to have connection with any extremist organization.

4. On the other hand learned APP appearing for the State, vehemently opposed this petition and submits that there is sufficient material available against this petitioner to show his involvement in the alleged crime and there is direct allegation against him. He further submits that as per the First Information Report, the petitioner's house was surrounded by the police party, and he and two other co-accused persons were

apprehended at the spot and from the physical possession of this petitioner, a loaded country-made *carbine* and three mobile phone sets were recovered and in this regard seizure memo available in the case diary is also relevant and the same was prepared before two witnesses, namely, Raju Kumar and Dharendra Kumar, their statements are also available in the Paragraph No. 2 of the case diary.

5. Heard both the sides and perused the order impugned and other relevant materials. By order impugned, the learned Magistrate has taken cognizance of the offences under Sections 144, 386, 387 of IPC, Sections 25(1B)(a), 26 and 35 of the Arms Act and Section 17 of C.L.A. Act.

6. As per the allegation some infamous members of an extremist group gathered in the village of this petitioner to resolve a dispute relating to supply of canal water and acting on a secret information the police party raided the house of the petitioner and some members of the extremist group managed to escape, but the petitioner along with other two co-accused persons was apprehended and from the possession of this petitioner, a prohibited firearm and other incriminating materials such as mobile sets, bullets etc. were also recovered. Regarding this recovery, the seizure memo is available in the case diary

and the same was prepared before two independent persons, whose statements are also available in the case diary, which supports the prosecution's allegation. These materials are sufficient to attract the major offences relating to the Arms Act, though there is no sufficient material to attract the offences punishable under Sections 386 and 387 of the IPC, but however, the petitioner's case is at initial stage and charges are to be framed upon him and the petitioner's grievances with regard to the offences of IPC may be raised by him at the time of hearing on charges before the Trial Court.

7. Considering the above facts, this Court does not find any merit in the present application, so it stands dismissed with giving a liberty to the petitioner to raise his grievances with regard to the offences of IPC of which the cognizance has been also taken at the time of framing of charges before the concerned Trial Court.

(Shailendra Singh, J.)

Jyoti Kumari/-

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