



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1344 OF 2023

Ganesh s/o. Bhagirath Mundalik .. Petitioner
Age.-33 years, Occ. Business,
R/o. Gadhe Galli, Belapur Bk.,
Tq. Shrirampur, Dist. Ahmednagar.

VERSUS

1. The Collector, Ahmednagar .. Respondents
Competent Authority under
Arms Act.
2. The Divisional Commissioner,
Nashik Dn., Nashik.
3. The State of Maharashtra,
Through Police Inspector,
Shrirampur Police Station,
Shrirampur, Dist. Ahmednagar.

Mr. B.R. Waramaa, Advocate for the petitioner.
Ms. A.S. Deshmukh, APP for the respondents-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 07.08.2025
PRONOUNCED ON : 08.09.2025

J U D G M E N T :-

01. Heard. By order dated 21.01.2025 this Court had issued Rule in this petition. Therefore, same is taken up for final disposal by consent of the parties.

02. This petition is filed challenging a judgment and order dated 01.07.2022 passed by the learned Divisional Commissioner, Nashik Division, Nashik, in Arm License Appeal No. 35 of 2018, thereby confirming an order passed by the learned Collector, Ahmednagar. The learned Collector, Ahmednagar by way of his order dated 06.09.2021 refused to grant arm license to the petitioner.

03. It is a case of the petitioner that he is having agricultural property. He stays there with his family in the agricultural land. His father late Bhagirath Rangnath Mundlik was having Arm License and was possessing "Entered One 32 Bore Revolver No. A2334/08. His father died on 15.11.2016. He had already executed an affidavit on 21.08.2012 before the Tahsildar, Shrirampur, wherein he has expressed that after his death, the license be given to the present petitioner. The petitioner is required to look after the agricultural land. He is also having a gold shop and a water purification plant. It is for this reason, he applied for license by filing application dated 25.01.2017. However, the learned Collector rejected the application, stating that there is no convincing reason for giving license, no grave and imminent threat is shown and there was crime registered against the petitioner on the basis of which he faced

trial. It is also considered that he has been acquitted from the said offence. However, it is considered that the report from the Superintendent of Police is negative.

04. The petitioner approached the learned Divisional Commissioner, challenging order passed by the learned Collector. The learned Divisional Commissioner, Nashik by way of the impugned order, rejected the appeal, confirming the order. It is also stated that there is no grave and imminent threat shown to the life of the petitioner. He reiterated the reason that there is negative report given by the Superintendent of Police, while dismissing the appeal.

05. Learned Advocate Mr. Waramaa vehemently argued that looking to the scheme of sections 13 and 14 of the Arms Act, it mandates that the license be issued to a person unless there are circumstances existing for not granting such license. He submits that in the present case, both the Authorities have recorded totally perverse finding. Merely, negative report from the Superintendent of Police cannot be used to refuse the license. He submits that in other cases some parties have been granted license liberally just for asking. Though there was offence pending against the petitioner, he has been acquitted in 2018 itself. That

ground is no more available to the Authorities. He thus prays for allowing the petition.

06. Learned APP argued that it is for the Authorities to consider the case for grant of license on its own merits. Same is properly considered by the Authorities. There is criminal history against the present petitioner. The Authorities have discretion in the matter of granting license. In the present case both the Authorities have properly exercised the discretion.

07. In the present case, the petitioner while applying for the license has only stated that his father was possessing a license. The father of the petitioner had given an affidavit to the Tahsildar stating that the license be transferred in the name of the petitioner. The father died in 2016. In the application the only reason stated is that the petitioner possesses agricultural land and he is having gold shop and water purification plant. The Superintendent of Police made enquiry and filed a report. It is concluded in the report that there is no strong reason to grant license to the petitioner for his self-defense. The learned Collector has discussed that there is no sufficient and proper reason stated in the application making out a case for grant of license. It is observed in the

order that for the gold shop, the petitioner can engage a guard with arm and accepted the report of the Superintendent of Police. He further considered section 13(2A)(2) of the Arms Act.

08. The learned Divisional Commissioner has considered Rule 25 of the Arms Rule, 2006, which deals with grant of license to legal heirs. It provides for giving license to the legal heirs nominated by such person. It provides that the Authority may grant license to such legal heirs if the eligibility conditions under the Act and the Rules are fulfilled and there are no adverse remarks in the police report. The Rule is quoted under :-

"25. Grant of licenses to legal heirs.

- (1) The licensing authority may grant a license -
 - (a) after the death of the licensee, to his legal heir; or
 - (b) in any other case, on the licensee attaining the age of seventy years or on holding the firearm for twenty five years, whichever is earlier, to any legal heir nominated by him:

Provided that notwithstanding the provisions contained in rule 12 of these rules, the licensing authority may grant a license to such legal heir if the eligibility conditions under the Act and these rules are fulfilled by the said legal heir and there are no adverse remarks in the police report.

- (2) Where a licensee leaves behind more than one legal heir and the legal heirs decide amongst themselves to retain the arm or arms of the deceased, one of the legal heirs nominated by all other legal heirs may apply for a license under sub-rule (1) along with the following documents, namely:-

- (i) a declaration of no-objection from the remaining legal heirs;
- (ii) an indemnity bond executed by the applicant giving full details of the license and the arm or arms endorsed thereupon; and

(iii) a copy of the death certificate of the deceased licensee.

(3) Where the legal heirs decide to dispose of the arm or arms endorsed on the license of the deceased licensee, they may apply to the licensing authority for grant of a limited period permission to sell the arm or arms, within the time allowed by such authority, to any licensed dealer or to any other person entitled to possess an arm under these rules."

. He has thus considered that the Superintendent of Police has given adverse report and rejected the appeal.

09. The learned Advocate for the petitioner has stated that in other cases the licenses are given liberally and merely for asking and it is only in the case of the petitioner, no license is given.

10. This Court finds that merely in any other cases, licenses are given liberally is no reason to grant license to the petitioner. The learned Divisional Commissioner has considered that while giving license to the legal heirs, there should be no adverse report from the Police. In the present case, there is adverse report from the police.

11. It is rightly criticized by the learned Advocate for the petitioner that while passing the order, it is not for the Authorities to observe as to how care can be taken of the property. Certainly, this

Court finds that the observation that the petitioner can engage services of armed guard is not warranted. However, that itself would not make the order perverse. At the most, said observation can be said to be redundant.

12. This Court finds that the learned Divisional Commissioner has rightly considered the Rule 25 and has passed order. Reliance is placed by the petitioner on the communication by the Joint Secretary to the Government of India to the Secretaries (Home Department), all States, UTs dated 06.04.2010. The learned Joint Secretary has given guidelines for grant of licence/renewal of such licence. This Court finds that from the said guidelines, this Court does not find that this Court can get any support. Clause "a" of the communication reads as under :-

"a) Those persons who face grave and imminent threat to their lives by mere reason of being residents of a geographical area (or areas) where terrorists are most active and/or are held to be prime 'targets' in the eyes of terrorists and/or are known to be inimical to the aims and objects of the terrorists and as such face danger to their lives."

13. Reliance of the petitioner on the judgment passed by this Court dated 12.01.2018 in Cri. Writ Petition No. 984 of 2016 is also not of much help to the petitioner. In that case, this Court had observed that though licensing Authorities can refuse license to a person on the ground

of security, peace or public safety, the Authority shall not refuse to grant license merely on the ground that such person does not own or possess sufficient property. In that case, the Authority had given reason that the petitioner in that case was not having sufficient property.

14. This Court finds that there is nothing to support the case of the petitioner. No grave or imminent danger is shown to the life of the petitioner. The Authorities are certainly vested with discretion. Unless it is shown that the discretion is exercised in perverse manner, this Court need not interfere with the same. It is for that reason, the report for Superintendent of Police was called while considering such application. This Court finds that no case is made out for allowing the petition. The petition deserves to be dismissed.

15. Hence, this Criminal Writ Petition is dismissed. Rule stands discharged.

[KISHORE C. SANT, J.]