

Court No. - 19

Case :- WRIT - C No. - 24708 of 2021

Petitioner :- Ram Milan

Respondent :- State of U.P. and 2 Others

Counsel for Petitioner :- Mani Shanker Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri M.S. Pandey, learned counsel for petitioner and learned Standing Counsel for State-Respondents.
2. Petitioner has claimed himself to be an Advocate practicing at District Court, Allahabad and has applied for a firearm licence for Revolver under Section 13 of the Arms Act, 1959 read with the Arms Rules, 2016 for his personal and professional safety on the ground that there was an attempt to murder on him and some local persons tried to molest his female family members by entering in his house. In this regard two First Information Reports were registered being Case Crime No. 286 of 2017, under Section 147, 323, 504, 506 IPC and 3(2)(Va) SC/ST Act, Police Station Bara, District Allahabad and Case Crime No. 108 of 2017, under Sections 323, 354, 504, 506 IPC and 3(1)(10) SC/ST Act, Police Station Bara, District Allahabad. It was further disclosed that in first case no charge sheet has been filed till date, however, in second case charge sheet has been filed and matter is pending for trial. Petitioner has also filed an affidavit before Licensing Authority in this regard.
3. Sri M.S. Pandey, learned counsel for petitioner, submits that petitioner has to travel for the purpose of his profession and for his personal and professional safety a firearm licence is required. The accused persons in above referred criminal cases have threatened him and pressurizing to compromise the criminal cases. He also submits that the grounds for rejection of firearm licence that petitioner has no case under victims of crime or having genuine need of weapon, is not correct because petitioner has sought firearm licence on the ground of personal safety and not as a victim

of crime, therefore, the orders passed by Licensing Authority as well as Appellate Authority are bad in law and liable to be set aside.

4. The above submissions are vehemently opposed by learned Standing Counsel appearing for State-Respondents. He submits that Licensing Authority on the basis of material available and taking note of the police report as well as status of aforesaid criminal cases, come to the conclusion that petitioner has no ground for grant of firearm licence. The subjective satisfaction of Licensing Authority was based on material available. It is specifically stated in the impugned order that there is no material on record that petitioner is a victim of crime or has genuine need to grant firearm licence. It is well settled that subjective satisfaction of Licensing Authority cannot be interfered in writ jurisdiction in absence of any reasonable ground.

5. Petitioner has claimed himself to be an active Advocate. However, there is no documentary evidence on record. Neither the registration of petitioner as an Advocate nor any membership with District Bar Association nor any document to show that he is active in profession, are on record. Petitioner has not placed any record about the present status of aforesaid criminal cases except that in one case trial is pending without disclosing the present status of trial. The contention that the accused persons are extending continuous threat to petitioner to enter into compromise in aforesaid criminal cases, is not supported by any evidence or document. Even no complaint has been filed by petitioner in this regard. He has not even approached the concerned authority to take protection under Witness Protection Scheme 2018.

6. The subjective satisfaction of Licensing Authority cannot be interfered by this Court under the writ jurisdiction in absence of any material, that there was no basis for such satisfaction or the basis of satisfaction is based on surmises and conjectures. Even the contention of petitioner that there was an attempt to murder is not supported by the offences under which the aforesaid criminal cases are registered.

7. Rule 12 of Arms Rules, 2016 provides certain factors which have to be taken into consideration by the Licensing Authority while granting a firearm licence. It includes legitimate and genuine reasons and also that the

very nature of his business, profession, job or otherwise has genuine requirement to protect his life and property.

8. In the present case the Licensing Authority has taken into consideration the above factors also and on the basis of material available found that petitioner's case does not fall under the aforesaid category and rejected the application for grant of firearm licence.

9. In this case the petitioner has claimed himself to be an active Advocate, who desires to have arm licence for his personal and professional safety. If an Advocate requires a firearm licence for his personal and professional safety, it would be a very dangerous practice. The profession of Advocate is a noble profession. An Advocate always appears fearlessly before the Court to protect the rights of his clients. In case there is a threat in the mind of Advocate, the entire basis of nobleness of the profession would fall. If such applications are allowed without any concrete basis, a day will come that every Advocate will carry an arm inside the Court premises. Every Advocate has a weapon of his legal arguments with bullets of judgments passed by High Courts and Supreme Court in support of his submission, which are enough to provide safety to his profession and client and are sufficient to demand justice from the Courts. Normally they do not need firearm for their professional safety. It is made clear that there is no bar for the Advocate to apply for firearm licence and their application can be considered in accordance with law under the provisions of Arms Act, 1959 read with Arms Rules, 2016. However, a general trend to have a firearm licence by an Advocate without any good reason is not appreciable and it is not in the interest of noble profession of Advocate.

10. In view of above, the writ petition lacks merit and is accordingly dismissed.

11. However, it is clarified that in case petitioner has genuine threat from the accused persons, he is always at liberty to approach the police authorities to seek protection under Witness Protection Scheme, 2018.

Order Date :- 05.10.2021

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