

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.809 of 2024
In
Civil Writ Jurisdiction Case No.7091 of 2023

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Amitav Bachchan Ray, male, aged about 39 years, Son of Upendra Ray,
Resident of Village- Terasiya, Police Station - Ganga Bridge, District -
Vaishali.

... .. Appellant

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, Vaishali at Hajipur.
4. In-charge Officer, District Arms Section, Vaishali at Hajipur.
5. The Superintendent of Police, Vaishali at Hajipur.
6. The Officer-in-Charge, Ganga Bridge Police Station, District- Vaishali at Hajipur.

... .. Respondents

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Appearance :

For the Appellant : Mr. Yogesh Chandra Verma, Sr. Advocate with
Mr. Gajendra Kumar Singh, Advocate
For the State : Mr. P.K. Verma, AAG-3
Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RITESH KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 16-01-2026

Heard Mr. Yogesh Chandra Verma, learned Senior
counsel for the appellant assisted by Mr. Gajendra Kumar
Singh, and Mr. P.K. Verma, learned AAG-3 for the
Respondents-State assisted by Mr. Saroj Kumar Sharma, learned



AC to AAG-3.

2. The present *intra* court appeal has been filed challenging the order dated 02.01.2024, passed by learned Single Judge of this Court, in CWJC No.7091 of 2023, whereby the learned Single Judge has dismissed the writ petition.

3. The brief facts of the case are that the Collector, Vaishali at Hajipur had issued an arms licence bearing Licence No. 2776/NH/KNA for one N.P. bore Pistol in favour of the appellant. The said licence was duly inspected from time to time and renewed in accordance with law. Pursuant thereto, the appellant purchased the licensed arm and it is not the case of the authorities that the same was ever misused by him. Subsequently, the appellant was made an accused in Ganga Bridge P.S. Case No. 143 of 2018 dated 15.10.2018, instituted under Sections 30(A), 38 and 47 of the Bihar Prohibition and Excise Act, 2016. In the said case, the appellant was granted bail by the competent court on 18.01.2019. Thereafter, a show-cause notice was issued to the appellant by the Incharge Officer, District Arms Section, Vaishali at Hajipur. The appellant submitted his reply to the said show-cause on 08.11.2019, specifically stating that he had never misused the licensed arm. The In-charge Officer, District Arms Section, Vaishali, by order



dated 31.12.2019, suspended the arms licence of the appellant with immediate effect. Aggrieved thereby, the appellant preferred an appeal before the Commissioner, Tirhut Division, Muzaffarpur, against the order dated 31.12.2019. The learned Commissioner, however, dismissed the appeal, holding that no interference was warranted with the order of suspension. The appellant thereafter approached this Court by filing CWJC No. 7091 of 2023, which also came to be dismissed by the learned Single Judge.

4. The learned Single Judge while dismissing the writ petition observed as follows:

“2. It seems that the petitioner is a smuggler involved in smuggling of liquor. The arms license of the petitioner has been suspended because of pending cases of liquor smuggling against him. Such criminals do not deserve any sympathy from this Court.

3. In such view of the matter, I do not find any illegality in the order dated 25.01.2023 passed by the Commissioner. Accordingly, this writ application stands dismissed.”

5. Learned counsel for the appellant submits that the suspension of the appellant’s arms licence is based solely on the pendency of a criminal case and not on any independent or objective satisfaction regarding threat to public peace or safety,



which is a mandatory requirement under Section 17(3) of the Arms Act, 1959. The appellant was granted a valid arms licence after due verification, the same was regularly renewed, and there is no allegation at any stage that the licensed arm was ever used or misused by him. Even in the criminal case registered against the appellant, the licensed weapon is not alleged to have been used. It is also urged that the licence has been suspended for an indefinite period, which is impermissible in law. Mere registration of a criminal case cannot lead to branding the appellant as a criminal or smuggler, particularly in the absence of any adjudication of guilt.

6. Learned counsel for the appellant also submits that none of the conditions governing possession, carrying or use of arms reliance as mandated by the Arms Rules, 2016 has been violated by the appellant. There is no allegation that the appellant carried the weapon in a manner contrary to the Rules and Regulations specified by the Central or the State government. Conditions mandated under Form III, Schedule III of the Arms Rules, 2016 have not been violated, and as such the cancellation of the arms license of the appellant is not sustainable in the eyes of law.

7. In support of his submissions, learned counsel



for the appellant further relies upon the Full Bench Judgment of this Court in ***Kapildeo Singh vs. State of Bihar***, reported in ***AIR 1987 Pat 122***, wherein paragraph 11 of the judgment reads as under:

“11. A strong note of caution, however, must be sounded in this context. It is not the pendency of any and every criminal case which would inflexibly warrant the suspension or revocation of a licence validly granted. A criminal case may range from a paltry traffic offence to the most horrendous capital crime. Whilst the pendency of the former may hardly provide an adequate basis under Section 17(3), in the case of the latter after notice and hearing of the explanation such action may well become necessary. Equally, the use or employment of the licensed weapon in the alleged crime might well be a relevant and added factor for consideration in the exercise of the discretion by the licensing authority. There is no gainsaying that licensed weapons are not to be allowed to degenerate into crime weapons. It bears repetition that Sub-section (3) puts the matter in the subjective satisfaction of the licensing authority and inevitably the issue cannot be put in the procrustean bed of a precise definition or an exhaustive enumeration of situations in which such discretion may be exercised.”

8. Relying on the aforesaid case, learned counsel



for the appellant submits that since the licensed arm was neither used nor misused and no material exists to show any apprehension to public peace or safety, the suspension of the appellant's arms licence is arbitrary, mechanical and contrary to law.

9. Learned counsel appearing on behalf of the respondent submits that there is no infirmity in the order passed by the learned Single Judge. In support of his submissions, he places reliance upon paragraph 4 of the counter affidavit filed by them, which reads as under:

“4....The appeal preferred by the appellant is not maintainable either in law or facts both in view of the fact that the appellant has been made accused in connection with Ganga Bridge P.S. Case No. 143 of 2018 under Sections 30(a)/38/37 of the Bihar Prohibition and Excise Act 2016 which comes under the organized crime, Section 17(1)(3)(b)(d) of the Arms Act, 1959 empowers the licensing authority if there is apprehension of security of public peace or for public safety can suspend/ Revoke the licence.”

10. Learned counsel for the respondent, on the basis of the aforesaid, submits that the action taken by the licensing authority as well as the order passed by the learned



Single Judge are fully justified and call for no interference by this Court. The learned counsel for the state further submits that issuance of Arms license is considered to be a privilege, and it is not a right.

11. Upon careful consideration of the submissions advanced by both the parties and the materials on record, it is evident that the arms licence issued in favour of the appellant has never been misused. The criminal case registered at Ganga Bridge P.S. Case No. 143 of 2018 pertains to the seizure of 18,000 litres of illicit liquor under the Bihar Prohibition and Excise Act, 2016, and the appellant has already been granted bail. Importantly, the licensed firearm has no connection with the alleged offence and has not been used or employed in any manner in relation to the criminal case.

12. This Court is of the view that the mere pendency of a criminal case cannot, by itself, constitute a ground for suspension or revocation of an arms licence. This view finds support from paragraph 11 of the Full Bench Judgment of this Court in ***Kapildeo Singh*** (*supra*).

13. The State authorities have also failed to show any violation on the part of the appellant of the rules or conditions governing the issuance of arms license or possession



of arms and ammunition. Section 17 of the Arms Act, 1959 enumerates specific grounds on which an arms license may be suspended or revoked. A plain reading of Section 17 of the Arms Act, 1959 with the Arms Rules, 2016 clearly indicates that no provision thereof has been violated by the appellant in the present case. Furthermore, the Bihar Prohibition and Excise Act, 2016, under which the appellant has been made as an accused, does not contain any express provision mandating the suspension or revocation of an arms license merely on account of such accusation.

14. Any precautionary suspension done by the authorities must be based on concrete material showing a potential threat to public peace or safety. A prolonged or indefinite suspension without any material showing misuse or danger renders the action of the respondent authorities arbitrary and unsustainable in law.

15. In view of the discussions made above, the present Letters Patent Appeal stands allowed, and the order of the learned Single Judge dated 02.01.2024 passed in CWJC No. 7091 of 2023 is set aside. Accordingly, the suspension of the appellant's arms license is set aside and the licensing authority is directed to restore the appellant's arms license.



16. Pending application(s), if any, shall also stand
disposed of.

(Sudhir Singh, J.)

(Ritesh Kumar, J.)

Gaurav Kumar/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.01.2026
Transmission Date	N.A.

