



2024:DHC:7391



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 20th September, 2024***+ **W.P.(CRL) 2669/2023****ARASDEEP SINGH**

.....Petitioner

Through: Mr. S.N. Pandey, Mr. Kulvinder Singh, Mr. Krishna Pandey, Ms. Soumya Pandey and Mr. Aditya Jha, Advocates.

versus

STATE GNCT DELHI

.....Respondent

Through: Mr. Bhagvan Swarup Shukla, Ld. CGSC with Mr. Vinay Kumar Shukla, Advocate for UOI.
Mr. Sanjay Lao, Ld. ASC for State with SI Pratima P.S. IGI Airport.
Mr. Ashok Kriplani, Advocate.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of the petitioner seeking to quash the FIR No. 37/2023 registered under Section 25 of the Arms Act, 1959 (*hereinafter referred to the "Act, 1959"*) Police Station IGI Airport, Delhi.
2. The Petitioner is a 22 year old citizen of India who got a job

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opportunity as a learner Driver in the State of Qatar and had a work Visa issued by Qatar which was valid from 20.12.222 to 28.03.2023. The Petitioner had come to Delhi from Punjab on 14.01.2023 for taking a flight from New Delhi to Doha at the IGI Airport.

3. A physical search of his baggage was conducted at the Airport during which undeclared ammunition, 1 cartridge of 0.32 mm calibre was recovered. Consequently, FIR No. 0037/2023 was registered at P.S. IGI Airport, New Delhi on 14.01.2023. After further search nothing incriminating was recovered from Petitioner and due to no criminal antecedents, the petitioner was released on police bail by the I.O. of the case. There is no Chargesheet filed in the case as yet.

4. The Petitioner had his passport released from ACMM, Patiala House Courts, New Delhi vide Order dated 16.03.2023 and was permitted to go abroad subject to certain conditions on the ground of requirement to join his work place for a period of one year vide order dated 20.03.2023.

5. The Petitioner has been facing unnecessary problems due to pendency of the FIR and has sought quashing of the said FIR on the ground that he is not aware as to from where and how the alleged live cartridge crept into his check-in baggage. The recovered cartridge was the only material and there was nothing else and in the absence of any weapon like pistol, the recovered ammunition was useless and was unable to be any threat to any person.

6. It is submitted that there was no allegation of suspicious circumstances against the Petitioner except the mere recovery of the live cartridge from the possession of the petitioner. The Petitioner belongs to a poor farmer family and was to join as a driver in Doha just to earn his livelihood.



7. The **Respondent has filed Status Report** to the effect that upon recovery of the live cartridge from the possession of the Petitioner, he was interrogated, during which he disclosed that he is not aware about the cartridge and neither he nor his family have any ammunition license. The exhibits of the case have been sent to FSL Rohini.

8. **Submissions Heard.**

9. Admittedly, one live ammunition has been recovered from the possession of the Petitioner during his baggage scanning at a security check and on the physical checking at IGI Airport, New Delhi, while he was travelling to Doha from New Delhi. As has been held in a catena of judgements even single ammunition recovered from the possession of a person, amounts to recovery of ammunition. In Ritesh Taneja vs. State and Another, 2022 SCC OnLine Del 971, it has been explained by the Coordinate Bench of this Court that conscious possession of any firearm/ammunition entails strict liability on the offender.

10. The pre-condition for an offence under Section 25(1)(a) of the Arms Act, 1959 is the element of intention, consciousness or knowledge with which a person possessed the Firearm before it can be said to constitute an offence, as held by the Constitution Bench of the Apex Court in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194.

11. In Sanjay Dutt v. State through CBI, Bombay, (1994) 5 SCC 410, the Constitution Bench of the Apex Court had reiterated as under: -

“The meaning of the first ingredient of “possession” of any such arms etc. is not disputed. Even though the word ‘possession’ is not preceded by any adjective like ‘knowingly’, yet it is common ground that in the context the word ‘possession’ must mean possession with the



requisite mental element, that is, conscious possession and not mere custody without the awareness of the nature of such possession. There is a mental element in the concept of possession. Accordingly, the ingredient of 'possession' in Section 5 of the TADA Act means conscious possession. This is how the ingredient of possession in similar context of a statutory offence importing strict liability on account of mere possession of an unauthorized substance has been understood. (See Warner v. Metropolitan Police Commissioner, (1969) 2 A.C. 256 and Sambasivam v. Public Prosecutor, Federation of Malaya, (1950) AC 458.”

12. In Gaganjot Singh v. State, MANU/DE/3227/2014, the Co-ordinate Bench of this Court in similar facts, where a solitary live cartridge was recovered by the police from the petitioner's bag which belonged to his uncle about which he expressed his lack of knowledge. It was held that the circumstances did not establish *conscious possession*. Relying on the decision in Gunwantlal (Supra), the FIR was quashed and the petitioner was discharged.

13. In Chan Hong Siak through Arvinder Singh vs. State & Anr., decided *vide* CRL.M.C. 3576/2011 like in the present case, a single live cartridge was found from the possession of the alleged offender. Finding that there were no suspicious circumstances other than the mere recovery of the live cartridge from the possession of the charged individual, the learned Single Judge quashed the criminal proceedings by observing that the “*single live cartridge* ” cannot be used for the purpose without firearms”.

14. Similar, observations have made consistently by the Co-ordinate Bench of this Court in Narinderjit Kaur Singh vs. State (NCT of Delhi) decided *vide* W.P.(CRL) 1669/2017 and Nimesh Kumar vs. State of NCT of



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Delhi, decided *vide* W.P.(CRL) 3540/2017.

15. The circumstances in which the live cartridge was recovered from his possession have been explained by the petitioner who has stated that he was not even aware of the cartridge in his baggage and does not even have any arms license. He belongs to a poor farmer family and was going to Doha to earn his livelihood. The circumstances as explained by the petitioner, clearly establish that there was no criminal intent either on part of the Petitioner.

16. In the light of the aforesaid judgments, the recovery of live cartridge from the bag of the petitioner about which he was not even aware, does not disclose commission of any offence punishable under Section 25 of the Arms Act, 1959.

17. Accordingly, FIR bearing No. 0037/2023 registered at Police Station IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating there from are quashed.

18. The present petition along with pending application is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 20, 2024

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