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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 7114/2023**

BALJEET SINGH @ BALJIT SINGHPetitioner
Through: Mr.Rahul Rai, Advocate

versus

THE STATE NCT OF DELHI & ANR.Respondents
Through: Ms.Richa Dhawan, APP for the State
with Mr.Anuj Chaturvedi, Advocate
alongwith SI Ria Jakhar, PS IGI
Airport

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
01.10.2024

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1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C.") (Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), has been filed on behalf of the petitioner seeking quashing of FIR bearing No. 290/2021 registered at Police Station IGI Airport for offence punishable under Section 25 of the Arms Act, 1959.
2. The brief facts of the case as per the FIR are that on 21st October, 2021, the petitioner was travelling from New Delhi to London by Virgin Atlantic Flight No.VS-303, and during the physical checking of his baggage, one live ammunition/cartridge was recovered by the security personnel at IGI, New Delhi and in pursuance to that, the aforesaid FIR was registered for possessing one live ammunition/cartridge as he had no valid document in support of the said recovered cartridge at that time. After brief investigation and interrogation, the alleged ammunition/cartridge was seized



and he was released without any arrest. On 14th September, 2022, chargesheet has been filed and charge under Section 25 of the Arms Act, 1959 was framed against the petitioner.

3. Learned counsel appearing on behalf of the petitioner submitted that in view of the facts and laws laid down by this Court as well as other High Courts, aforesaid FIR and other proceedings pertaining to the said FIR may be quashed.

4. *Per contra*, Ms. Richa Dhawan, learned APP for the State vehemently opposed the instant petition submitting to the effect that the petitioner was detected carrying one bullet in his baggage during the screening process, but failed to produce the valid document for possession of the same. However, it is not contended that there are any criminal antecedent of the petitioner.

5. Heard learned counsel for the parties and perused the record including the status report filed on behalf of the State.

6. In ***Sanjay Dutt v. State through CBI Bombay (II)***, (1994) 5 SCC 402 the Hon'ble Supreme Court has observed as under:-

“20. 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.”



7. This Court has, in several cases, including *Pritpal Singh v. State*, **2024 SCC OnLine Del 3333** and *Atin Chopra v. State (Govt. of NCT of Delhi)*, **2024 SCC OnLine Del 1946**, held that unconscious possession would not attract the rigours of the Arms Act, 1959.

8. In the instant case, the petitioner was in possession of one live cartridge/bullet, without any arms, which would have served no purpose in isolation. Moreover, neither there was an element of knowledge of possession of cartridge/bullet nor any underlying criminal intention. As per the status report, during the course of investigation, it was revealed that the said bullet belonged to the petitioner, who is having a valid arms license and the copy of the said Arms License is appended as Annexure P-6 to the petition. It is also an admitted fact that there are no criminal antecedents of the petitioner.

9. Keeping in view the aforesaid facts and circumstances, the arguments advanced by the learned counsel appearing on behalf of the parties and the judgments discussed above, this Court considers it apposite to allow the present petition. Accordingly, FIR No. 290/2021 registered at Police Station IGI Airport for offence punishable under Section 25 of the Arms Act, 1959 and all proceedings emanating therefrom are hereby quashed.

10. Accordingly, the petition stands disposed of.

CHANDRA DHARI SINGH, J

OCTOBER 1, 2024/Dy/mk [Click here to check corrigendum, if any](#)