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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5630/2022 & CRL.M.A. 22221/2022**
SAKSHI NEGI Petitioner
Through: Mr.Bharat Bhushan, Adv.

versus

STATE OF NCT OF DELHI Respondent
Through: Ms.Priyanka Dalal, APP with SI
Prashant.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **02.04.2024**

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for quashing of FIR No.424/2018 registered at Police Station: IGI Airport, New Delhi under Section 25 of the Arms Act, 1959 (in short, 'Arms Act'), along with all other proceedings arising therefrom.
2. It is the case of the prosecution that on 03.08.2018, when the petitioner was travelling on flight no.AI-636 from Delhi to Indore, on inspection of the handbag, one live ammunition marked ".3802 KF 04" was recovered during the screening process. As she was unable to produce any valid document for possession of the ammunition, the above FIR was registered.
3. In the course of interrogation, she stated that, on 05.06.2018, she had visited her uncle, namely, Mr.Chandra Prakash Thareja's house. There she was seeing her uncle's arms and ammunition and by mistake, the said live cartridge came in her baggage.
4. Thereafter, an FSL Report has also been received which opined that it was a live cartridge that can be fired through the .380" calibre



firearm.

5. The prosecution alleges that as the petitioner was in possession of one live ammunition without an Arms License or any authorisation, and, therefore, she had committed an offence under Section 25 of the Arms Act.

6. Charge-Sheet was filed against the petitioner and the trial is pending against her.

7. During the course of the investigation, the petitioner also provided Arms License of Mr.Chandra Prakash Thareja with the plea that the said ammunition belongs to him.

8. Pursuant to the Order dated 22.08.2023, the learned APP hands over a copy of the supplementary Status Report, which states that a verification report of the Arms License produced by the petitioner has been received from the office of the District Magistrate, Amritsar, which states that the said license was issued to Mr.Chandra Prakash Thareja by the A.D.M. Dimapur, Nagaland, and it was renewed by the office of the District Magistrate, Amritsar upto 11.10.2002.

9. The learned APP submits that, therefore, the Arms License was not valid as on the date of the recovery of the ammunition from the petitioner.

10. On the other hand, the learned counsel for the petitioner submits that the possession of the cartridge was not conscious. The petitioner was not carrying arms with her, and it was only by mistake and due to oversight, that the live cartridge remained in her handbag. He places reliance on the judgment of this Court in *Narendra Kumar Gupta v. State of NCT of Delhi* 2021 SCC OnLine Del 2335 to submit that the subject FIR be quashed.



11. I have considered the submissions made by the learned counsels for the parties.

12. In **Narendra Kumar Gupta** (Supra), this Court has held as under:

*“6. It is well settled that where a person is not conscious of the ammunition in his possession, an offence of under Section 25 of the Arms Act, 1959 would not be made out in view of judgments **Surender Kumar @ Surender Kumar Singh v. The State (GNCT of Delhi): W.P.(Crl.) 2143/2019** decided on 27.09.2019; **Aruna Chaudhary v. State : W.P.(Crl.) 1975/2019** decided on 25.09.2019 and **Paramdeep Singh Sran v. The State (NCT of Delhi) W.P.: (Crl.) 152/2019** decided on 29.08.2019), therefore, Section 25 Arms Act was converted into Section 30 Arms Act as the Petitioner was holding a valid Arms License.*

*7. The fact remains that this Court in **Chan Hong Saik (Supra)** quashed the FIR by holding that a single cartridge without firearm is a minor ammunition which is protected under clause (d) of Section 45 of the Arms Act. The larger Bench referred above did not agree with the opinion of this Court but however, opined that the possession of the ammunition was unconscious and there was no arm with the accused and there was no threat to anyone, therefore this Court has rightly quashed the FIR.*

8. In the case in hand, it is not the case of the prosecution that there was fire arm recovered from the petitioner or there was any threat to anyone at the Airport.

9. Thus, in the present case also, the possession of the ammunition was unconscious and there was no threat to anyone.”

13. The above ratio will squarely apply to the facts of the present case as well. What has been recovered from the petitioner is only one live cartridge, without any firearm. The possession of the ammunition does



not appear to be conscious possession. There was no threat to any other person. The petitioner has also produced an Arms License of her uncle, Mr.Chandra Prakash Thareja. Though, as per the report received, the said license was valid till 11.10.2002, the said certificate merely states that the last renewal from the said office was till that date. Be that as it may, once the possession of only one cartridge and that too without a firearm is found, and the same is not found to be a conscious possession, and there was no threat to any other person at the airport, applying the principle laid down by this Court in *Narendra Kumar Gupta* (Supra) and the order dated 11.03.2024 passed in CRL. M.C. 1965/2024, titled *Mukesh Kumar Puri v. The State (NCT of Delhi)*, the FIR deserves to be quashed.

14. Accordingly, the petition is allowed. FIR No.424/2018 registered at Police Station: IGI Airport, New Delhi under Section 25 of the Arms Act and all consequential proceedings emanating therefrom against the petitioner are quashed, subject to the condition that the petitioner shall deposit costs of Rs.15,000/- with the “*Delhi High Court Staff Welfare Fund, UCO Bank, Delhi High Court, A/C 15530110074442, IFSC Code UCBA0001553*”, within a period of four weeks from today, and file proof of such deposit with the Registry of this Court, and also supply a copy thereof to the IO, within the said period.

NAVIN CHAWLA, J

APRIL 2, 2024/ns/RP

Click here to check corrigendum, if any