



\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 5598/2024**

DILNOOR BABLU

.....Petitioner

Through: Mr. Amit Chadha, Mr. Atin Chadha, Ms. Munisha Chadha, Mrs. Rekha Kumari, Ms. Aeshana Singh & Mr. Harjas Singh Chhatwal, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP with Ms. Neha Vasist, Mr. Sandeep, Mr. Rohit Kumar, Mr. Mohit Kumar, Mr. Ashish Dhaka, Mr. Ankit Khatri and Mr. Deepanshu Badiwal, Advocates for the State. SI Sunita, PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

29.07.2024

1. The present petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('**BNSS**') seeking quashing of FIR No. 0478/2024 dated 07.07.2024, for offence under Section 30 of the Arms Act, 1959, registered at Police Station I.G.I. Airport.

2. It is averred that one live cartridge was seen in the luggage of the petitioner during the pre-embarkment security screening. The live cartridge was subsequently recovered during physical check. The present FIR was registered against the petitioner as he failed to produce valid documents for carrying the seized



ammunition.

3. During the investigation, the petitioner produced a copy of an Arms License issued in the name of the petitioner in respect of a '0.32 Bore revolver', which was renewed from 18.07.2022 till 17.07.2027.

4. The learned counsel for the petitioner submits that the petitioner is an Artist/ Punjabi singer who was slated to travel to Dubai for a music concert. He submits that the was completely unaware and unconscious of the presence of the live cartridge in his luggage bag.

5. He submits that the petitioner had carefully kept the weapon and bullets safely in the locker before leaving his house and had no criminal intention to carry the cartridge which was seized.

6. He submits that the petitioner had procured a licensed 0.32 revolver and cartridges from the Department of Home Affairs and Justice, Government of Punjab. He submits that the petitioner is a law abiding citizen.

7. He submits that the offence under Section 30 of the Arms Act, 1959 is not made out when the suspect is not conscious of the possession of live ammunition.

8. The learned Additional Public Prosecutor for the State submits that the petitioner has contravened the condition of the licence, in as much as, he carried a live cartridge beyond the State of Punjab.

9. He submits that the license of the petitioner has been verified through the proper channel.

10. The only allegation made against the petitioner is that he was carrying an ammunition without a valid license. It has to be kept in mind that the arm, which is alleged to be carried, is not a gun but a cartridge. The mere possession without a conscious



possession or the awareness cannot make a person liable for offence under the Arms Act, 1959.

11. The offence under Section 30 of the Arms Act, 1959 is non-compoundable.

12. Section 30 of the Arms Act states as under :

“Whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to [six months], or with fine which may extend to [two thousand]”

13. It is the case of the petitioner that he was not conscious of the fact that the check-in bag carried by him contained one live cartridge. It is stated that the petitioner had kept the weapon and the bullets safely in the locker before leaving his house.

14. The State has not alleged that the possession was conscious or there was some *mens rea* behind carrying the cartridge. The present case seems to be a case where the petitioner inadvertently carried the cartridge in his bag.

15. The version of the petitioner is a plausible one. It is settled law that the Court, while exercising jurisdiction under Section 528 of the BNSS, can interfere at any stage to prevent abuse of the process of Court, with the safeguard that the use of such power should be legitimate.

16. It is also worth noting that Section 45(d) of the Arms Act, 1959 does not make the acquisition/possession or carrying of minor parts of arms or ammunition which are not intended to be used along with complementary parts an offence under the Arms Act.

17. This court while dealing with somewhat similar circumstances quashed the FIR where the accused was found in possession of a cartridge during the travel. The Court held that the



accused cannot be said to be in 'conscious possession' [Ref : ***Prabhsharan Kaur Bhatia v. Govt of NCT Delhi & Ors : W.P. (CRL) 1246/2024*** and ***Ramesh Kumar Thawait v. State of NCT of Delhi : W.P. (CRL) 33/2022***].

18. In the present case, barring the allegation of the petitioner having been found in possession of one live cartridge in his check-in baggage, there is no other material on record to show that the petitioner was in conscious possession of the said live ammunition.

24. This Court finds that continuance of the proceedings would be a futile exercise and accordingly, for the reasons stated above, this is a fit case to exercise discretionary jurisdiction under Section 528 of the BNSS.

25. In view of the above, the present petition is allowed and FIR No. 0478/2024 and all consequential proceedings arising therefrom are quashed.

AMIT MAHAJAN, J

JULY 29, 2024