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

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Date of decision: 18th September, 2024

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W.P.(CRL) 2538/2024

CHAMANPREET SINGH

.....Petitioner

Through: Mr. Rahul Rai, Advocate

versus

STATE GOVT OF NCT OF DELHI & ANR.

.....Respondent

Through: Ms. Nandita Rao, Ld. ASC for State
with SI Rajesh P.S. IGI Airport.

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., 1973"*) has been filed on behalf of the petitioner seeking to quash the FIR No. 0313/2024 registered under Section 25 of the Arms Act, 1959 (*hereinafter referred to the "Act, 1959"*) Police Station IGI Airport, Delhi.
2. The Petitioner, a 32 year old Indian citizen, was travelling on 29.04.2024 from Delhi to Bangkok by Flight No. 6E1053. During the physical checking of his handbag by security personnel at IGI Airport, New Delhi, one live ammunition was recovered for which he had no valid document, consequent to which the FIR No. 0313/2024 under Section 25 of



the Arms Act, 1959.

3. The Petitioner has explained that in a hurry to reach Delhi from Ambala, he borrowed a bag from his friend Shri Sagar Angris s/o Shri Raman Angris, in which he packed his belongings without checking and failed to notice that one live ammunition was left inside the bag. Shri Sagar Angris holds a valid Arms License bearing No. 6870/DMY/2016/R-19/P-288 dated 04.03.2016 issued by Office of SDM, Jagadhari, Yamuna Nagar, Haryana, which is valid upto 28.02.2027. The said ammunition was purchased by him on his own Arms license and was endorsed on his Arms license as well.

4. The Petitioner submits that he had no knowledge and was not conscious about the presence of ammunition in his bag and only became aware during screening of his baggage at the Airport.

5. The Chargesheet has not been filed in the case. The Petitioner has sought quashing of the said FIR and proceedings emanating therefrom.

6. The Petitioner has placed reliance on Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194, Chan Hong Siak through Arvinder Singh vs. State & Anr., CrI. M.C. No. 3576/2011, Adhiraj Singh Yadav vs. State, in W.P. (CrI.) 754/2020 dated 31.12.2020, Chandrashekhar vs. State of NCT of Delhi, in CrI. M.C. No.1575/2020 dated 26.11.2020, Hasib Ahmed Fazli vs. State of NCT of Delhi, W.P. (CrI.) 2988/2019 decided on 23.10.2019, Surender Kumar Singh Vs. The State (GNCT of Delhi) & Anr. W.P. (CrI.) 2143/2019 decided on 27.09.2019, and Davinder Singh Dhindsa vs. The State (NCT of Delhi) in W.P. (CrI.) 344/2019 decided on 01.04.2019.

7. **The Respondent in its Status Report** has submitted that during the screening of the baggage of the Petitioner a live ammunition was detected



which was measured and found to be 2.4 cm long and 0.7 cm wide, and G.F.L. 6.35 was engraved on the same. During investigation it was revealed that the handbag of the Petitioner belonged to one of his friend Shri Sagar Angris s/o Raman Angris who held a valid license. The seized ammunition has been sent to FSL Rohini vide Acknowledgement No. SFSL (DLH) 10355/Bal/986/24 dated 14.08.2024 for expert opinion, which is still awaited.

8. The I.O on behalf of State submits that he has verified and found that the cartridge has been purchased vis-a-vis the valid Arms license valid in entire India.

9. **Submissions heard.**

10. Admittedly, one live ammunition has been recovered from the possession of the Petitioner during his baggage scanning at a security check and thereafter during the physical checking at IGI Airport, New Delhi, while he was travelling to Bangkok 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.

11. 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 in Gunwantlal, (supra) by the Constitution Bench of the Apex Court.

12. In Sanjay Dutt, (supra), 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 unauthorised 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.”

13. In Gaganjot Singh, (supra), 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 case was quashed and the petitioner was discharged.

14. In Chan Hong Saik (supra), 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 fire arms.

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

16. The circumstances in which the live cartridge was recovered from his possession have been explained by the petitioner who has stated that he packed his luggage in a bag which he borrowed from a friend Shri Sagar Angris s/o Shri Raman Angris, without checking and failed to notice that one live ammunition was left inside the bag. The circumstances as explained by the petitioner clearly establish that there was no criminal intent either on part of the Petitioner.

17. In the light of the aforesaid judgments, it is evident that the recovery of live cartridge from the bag of the petitioner, does not disclose commission of any offence punishable under Section 25 of the Arms Act, 1959.

18. Accordingly, FIR bearing No. 0313/2024 registered at Police Station IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating therefrom, are quashed.

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

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 18, 2024