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

% ***Date of decision: 12th September, 2024***

+ **W.P.(CRL) 3746/2023**

RANJIT SINGH

.....Petitioner

Through: Mr. A. Chaudhary, Mr. Aman Yadav & Ms.
Sakshi Yadav, Advocates.

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Bhandari, ASC, Crl. for State.
S.I. Vipin Kumar, PS IGI Airport, Delhi.

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* “Cr.P.C., 1973”) has been filed on behalf of the petitioner seeking to quash the FIR No. 045/2023 registered under Section 25 of the Arms Act, 1959 (*hereinafter referred to the* “Act, 1959”) at Police Station IGI Airport, Delhi.

2. It is submitted that the petitioner is the holder of valid arm licence issued by the State of Punjab and had purchased the cartridges which are duly mentioned on his Arms licence.

3. On 19.01.2023, while the petitioner was travelling from IGI Delhi, Airport to Singapore by Flight No. SQ-401, he was detained and from his check-in baggage, eight cartridges were recovered. Consequently, the present FIR No. 045/2023 registered under Section 25 of the Act, 1959 at Police Station IGI Airport, Delhi.



4. The petitioner has asserted that he had not checked his baggage when he stuffed his belongings, while travelling to Singapore. The petitioner was not conscious about the cartridges which were inside his baggage and he unconsciously carried the cartridges in his baggage. It is claimed that there was no conscious possession of the live cartridges carried by the petitioner in his baggage. In fact, the petitioner has a valid Licence No. DM/PAT/DUP/SRJR/0618/150 issued for the state of Punjab.

5. The petitioner is 47 years old and is the citizen of India and commands good reputation in the society and the present FIR is a stigma to his character when in fact, he had no intention to commit any crime. It is, therefore, submitted that the present FIR may be quashed.

6. The petition has placed reliance on the decisions in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194, Chan Hong Siak through Arvinder Singh vs. State & Anr., CRL.M.C. 3576/2011 decided by Co-ordinate Bench of this Court, Jerusalem vs. State of Maharashtra, W.P.(CRL) No. 3569/2011 decided by the Bombay High Court, Hasib Ahmed Fazli vs. State of NCT of Delhi, W.P.(CRL) 2988/2019 decided on 23.10.2019 by Co-ordinate Bench of this Court, Surender Kumar Singh vs. The State (GNCT of Delhi) & Anr., W.P.(CRL) 2143/2019 decided on 27.09.2019 Co-ordinate Bench of this Court, Gupreet Singh Mangat vs. State of Delhi & Anr., W.P.(CRL) 337/2020 decided on 16.03.2020 by the Co-ordinate Bench of this Court, Devem Kathuria vs. State of NCT of Delhi & Anr., W.P.(CRL) 1488/2020 decided on 21.09.2020 by Co-ordinate Bench of this Court, Davinder Singh Dhinda vs. The State (N.C.T. of Delhi), W.P.(CRL) 344/2019 decided on 01.04.2019 by Co-ordinate Bench of this Court, Michael Joseph Hayden vs. State of NCT of Delhi, CRL.M.C.



282/2018 decided by Co-ordinate Bench of this Court, Jasbir Chahal vs. State of (GNCT of Delhi), CRL.M.C. 854/2018 decided on 07.05.2018 by Co-ordinate Bench of this Court, Gaganjot Singh vs. State (Govt. of NCT of Delhi), 2014 SCC OnLine Del 6885, Jaswinder Singh vs. State (Govt of NCT of Delhi), 2015 SCC OnLine Del 10894, Sonam Chaudhary vs. State, 2016 SCC OnLine Del 47 and Mandeep Lambs vs. State (Govt. of NCT of Delhi), 2017 SCC OnLine Del 9885.

7. **The Status Report** has been filed on behalf of the State, wherein it is stated that during the course of investigation, the petitioner was interrogated at length who stated that he has a valid Arms Licence of .32 Bore Pistol NO. RP-100829. On 29.11.2023, he had gone to Bajwa Gun House, Punjab to deposit his arms and ammunitions and while the pistol got deposited, but forgot to deposit the live cartridges even though he had put the same in his handbag.

8. The petitioner's family lives in Australia. Suddenly, one day due to his son's ill health, he had to go to Australia urgently and he immediately bought a Singapore Airlines' Ticket and left for Delhi Airport from Patiala. On 19.01.2023, those live cartridges were recovered from the petition's handbag during check-in at IGI Airport Delhi.

9. Learned Additional Standing Counsel on behalf of the State submits that the validity of the aforesaid Arms licence has been verified. The FSL Report has also been received, wherein it is stated that eight cartridges so recovered from the handbag of the petitioner, have been found to be live cartridges.

10. Therefore, the present petition has been strongly opposed on behalf of the State.



11. Submissions heard.

12. Admittedly, eight live cartridges have been recovered from the possession of the petitioner while he was transit from IGI Airport, Delhi to Singapore and during the security check of check-in baggage, eight rounds were detected in his check-in baggage for which he has the valid document regarding the said ammunitions recovered from his baggage. As has been held in a catena of judgments even a single cartridge 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 Co-ordinate Bench of this Court that conscious possession of any firearm/ammunition entails strict liability on the offender.

13. The pre-condition for an offence under Section 25(1)(a) of the 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.

14. 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.”

15. In Gaganjot Singh, (supra), the Co-ordinate Bench of this Court observed 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.

16. 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.

17. 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.

18. The circumstances in which the cartridge was recovered from his possession have been explained by the petitioner who has stated that he has a valid Arms Licence of 32 Bore Pistol NO. RP-100829. On 29.11.2023, he had gone to Bajwa Gun House, Punjab to deposit his arms and ammunitions, however, on that day, the pistol was deposited, but the live cartridges were not deposited. Due to non-deposit of the live cartridges, he put those live



cartridges in his handbag and forgot the same. The petitioner's family lives in Australia. Suddenly, one day due to his son's ill health, he had to go to Australia urgently and he immediately bought a Singapore Airlines' Ticket and left for Delhi Airport from Patiala. On 19.01.2023, those live cartridges were recovered from the petitioner's handbag during check-in at IGI Airport Delhi and the FIR 045/2023 registered under Section 25 of the Arms Act, 1959 at PS IGI Airport.

19. In the light of the aforesaid judgments, it is evident that the recovery of the eight cartridges from the handbag of the petitioner about which, he was not conscious as is explained by him. It cannot be said that he has committed an offence punishable under Section 25 of the Arms Act, 1959.

20. The circumstances as explained by the petitioner clearly establish that there was no criminal intent or nor was any conscious possession of an ammunition.

21. Therefore, the essential ingredient for constituting an offence under Section 25 of the Arms Act, 1959 is not established.

22. Accordingly, FIR bearing No. 045/2023 registered at Police Station IGI Airport, Delhi, for offence punishable under Section 25 of the Arms Act, 1959 and all consequential proceedings emanating therefrom are quashed.

23. The petition is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 12, 2024
S.Sharma