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

+ **W.P.(CRL) 3149/2024 & CrI.M.A.30506/2024**

**JAGPAL SINGH**

.....Petitioner

Through: Mr. Devinder Singh and Mr.  
Satvinder Singh, Advocates.

versus

**STATE OF NCT OF DELHI & ANR.**

.....Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC for  
State along with SI P. R. Hudda, PS-  
IGI Airport.

**CORAM:**

**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**03.12.2024**

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1. The instant petition under Article 226 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS"), has been filed on behalf of the petitioner seeking quashing of FIR bearing No. 0462/2024 registered at Police Station - IGI Airport, Delhi for offence punishable under Section 30 of the Arms Act, 1959.

2. The brief facts of the case are that on 2<sup>nd</sup> July, 2024, the petitioner was travelling from New Delhi to Dubai by Emirates Flight No. EK-513, and during the physical checking of his baggage, six undeclared live ammunition/cartridges were recovered by the security personnel at the Indira Gandhi International Airport, New Delhi and pursuant to the same, the aforesaid FIR was registered against the petitioner for possessing six live



ammunition/cartridges as he could not produce any valid document in support of the carriage of the said recovered cartridges at that time. After brief investigation and interrogation, the said ammunition/cartridges were seized and the petitioner was released without being arrested.

3. Learned counsel appearing on behalf of the petitioner submitted that there was no intention on behalf of the petitioner to commit any offence and that the petitioner was absolutely shocked that six live cartridges were found by the security agency in his baggage.

4. It is submitted that the petitioner had no knowledge of the presence of the said undeclared cartridges in his baggage and therefore, there was no conscious possession of the said cartridges by the petitioner. It is also submitted that the petitioner has deep roots in the society and that he has clean criminal antecedents.

5. It is prayed that in view of the facts and the law laid down by this Court, the aforesaid FIR and the proceedings emanating therefrom may be quashed.

6. *Per contra*, Mr. Satish Kumar, learned APP for the State vehemently opposed the instant petition submitting to the effect that the petitioner was detected carrying six cartridges in his baggage during the screening process, and after the recovery of the same, the petitioner was asked to produce the valid documents for the carriage of the said cartridges but the petitioner was not in possession of the same.

7. It is submitted that the petitioner upon examination disclosed that he holds an arms license bearing no. 000989/PB/ARMS/MHA/97, and that a copy of the license produced by the petitioner was sent to the FSL, the result



of which is still pending. It is further submitted that the said arms license is valid for the state of Punjab only.

8. However, the learned APP conceded that the arms license of the petitioner has been verified by the office of District Magistrate, Ludhiana, Punjab and it was found to be genuine and valid upto 20<sup>th</sup> May, 2028.

9. It is submitted that since the FSL report is still awaited, the prayer made by the petitioner may not be allowed by the Court at his stage.

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

11. It is an admitted fact that no weapon was found by the Airport Security staff and that only six live cartridges were recovered from the petitioner's baggage. Further, the said cartridges are of the same revolver for which a valid license was produced by the petitioner and the same has been verified by the office of the District Magistrate, Ludhiana, Punjab.

12. 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.”*



13. 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.

14. In the instant case, the petitioner was in possession of six live cartridges, without any arms, and the said cartridges would have served no purpose in isolation. Moreover, there was neither an element of knowledge of possession of the cartridges nor any underlying criminal intention on the part of the petitioner.

15. Further, during the course of investigation, it was disclosed by the petitioner that the said cartridges belonged to the petitioner, who is having a valid arms license. It is also an admitted fact that there are no criminal antecedents of the petitioner.

16. 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. 0462/2024 registered at Police Station IGI Airport for the offence punishable under Section 30 of the Arms Act, 1959 and all proceedings emanating therefrom are hereby quashed.

17. Accordingly, the petition along with pending application(s) stands disposed of.

**CHANDRA DHARI SINGH, J**

**DECEMBER 3, 2024**

rk/st

[Click here to check corrigendum, if any](#)