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

+ **W.P.(CRL) 3488/2024 & CRL.M.A. 33467/2024**

JAGDEV SINGH

.....Petitioner

Through: **Mr. Jagmeet Singh Randhawa,**
Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Mr. Sanjeev Bhandari, ASC for State**
with SI Ria

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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08.11.2024

CRL.M.A. 33466/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(CRL) 3488/2024

1. The instant petition under Article 226 and under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed by the petitioner praying for quashing of FIR bearing No. 0827/2024 registered at Police Station - IGI Airport for offence punishable under Section 25 Arms Act, 1959 of the Indian Penal Code, 1860 (hereinafter "IPC").
2. The petitioner is present before this Court and has been identified by the Investigating Officer ("IO" hereinafter) and their counsel.
3. The brief facts of the case are that the petitioner herein is a citizen of United States of America (USA) and an overseas citizen of India. On 22nd



October, 2024, the petitioner was travelling from Detroit Metro, Michigan (USA) to Amritsar, Punjab. Accordingly, the petitioner boarded the flight bearing no. TK-0206 from Detroit to Istanbul, Turkey and later boarded the flight bearing no. TK-0716 from Istanbul, Turkey to New Delhi, India. The subsequent flight to Amritsar, Punjab from New Delhi was scheduled on 24th October, 2024 with Vistara Airlines flight bearing no. UK697.

4. Upon physical checking of his baggage, one live ammunition/cartridge was recovered with the mark LC14 by the security personnel at IGI, New Delhi and in pursuance to that, the aforesaid FIR was registered for possessing one live ammunition/cartridge.

5. Learned counsel appearing on behalf of the petitioner submitted that there was no criminal intent to carry one single live cartridge in view of the fact that no firearm was found in his possession.

6. It is further submitted that he was not in the conscious possession of the said cartridge and therefore, in view of the facts and settled position of law laid down by the Hon'ble Supreme Court as well as the High Courts, it is prayed that the aforesaid FIR and proceedings emanating therefrom may be quashed.

7. *Per Contra*, learned APP appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that the petitioner was detected to have carried one live cartridge/ammunition in his baggage during the screening process, however, in case this Court is inclined to allow the instant petition and to quash the FIR in question, cost may be imposed upon the petitioner as considerable judicial time is wasted.

8. Heard learned counsel for the parties and perused the record.

9. It is relevant to mention the judgment of Hon'ble Supreme Court in



the case of *Sanjay Dutt v. State through CBI Bombay (II)*, (1994) 5 SCC 402, wherein it was observed as follows –

“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.”

10. Moreover, the Co-ordinate Bench of this Court in the case of ***Chan Hong Saik Thr. Spa: Arvinder Singh v. State***, 2012 SCC OnLine Del 3320 held that the recovery of a single cartridge without any firearm is ‘minor ammunition’ which would be protected by the provisions of the Arms Act, 1959.

11. In the instant case, it is observed that one live cartridge/ammunition has been recovered from the petitioner in isolation, that is, without any possession of arms, thereby amounting to unconscious possession and absence of criminal intention. Moreover, it is observed that the petitioner has produced the weapon license bearing no. 13-CLE-025162, which is issued by Clermont Country and the copy of the same is annexed as Annexure – D to the instant petition.

12. In view of the aforesaid facts and circumstances as well as the law discussed above, this Court is of the view that the recovery of the



ammunition in question was without the knowledge of the petitioner and therefore, the essential ingredient for constituting an offence under Section 25 of the Arms Act is not established.

13. Therefore, this Court is of the considered view that the no fruitful purpose will be served by punishing the petitioner for being in an unconscious possession of a single live cartridge without firearm.

14. In view of the above stated facts and circumstances, as well as the above discussion of law, this Court finds sufficient reasons to allow the present petition and quash the FIR registered under Section 25 of the Arms Act.

15. Accordingly, FIR bearing No. 0827/2024 registered at Police Station IGI Airport for offence punishable under Section 25 Arms Act, 1959 of the IPC and all consequential proceedings emanating therefrom are quashed, subject to the deposition of the cost of Rs. 25,000/- in the account of Army Central Welfare Fund, Saving Account no. 520101236373338 (IFSC-UBIN0530778), Bank Name- Union Bank of India, Branch- Chandni Chowk, Delhi – 110006 within a period of two week. The receipt to the payment of the aforesaid cost shall be furnished before the Registry as well as the IO of this Court within two weeks.

16. The instant petition alongwith pending applications, if any, stand disposed of.

CHANDRA DHARI SINGH, J

NOVEMBER 8, 2024
gs/mk

Click here to check corrigendum, if any