



2025:DHC:915



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

% *Date of decision: 31st January, 2025*

+ **CRL.M.C. 637/2025**

MRS. PUJESHWARI

W/o Mr. Harender Kumar

R/o Veena Puram, Faundry Nagar, Narkah,

Kuberpur, Agra, U.P.-282006.

.....Petitioner

Through: Dr. Ajay P. Tushir, Mr. Jaswant
Rathi, Mr. Varun Malik, Mr. P.
Tushir, Advocates .

versus

THE STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Shoaib Haider, Ld. APP for State
with ASI Bansi Lal P.s. Domestic
Airport.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CRL.M.A. 3038/2025 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The Application is accordingly disposed of.

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3. A Petition under Section 528 of BNSS/482 Cr.P.C has been filed for quashing of FIR No.028/2022 registered under Section 25 of Arms Act at



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Police Station Domestic Airport, IGI, New Delhi.

4. It is submitted that on 26.06.2022 the Petitioner who is a housewife was travelling from Delhi to Mumbai by Air Flight No.6E864. While she was waiting for the flight, she was detained as one live ammunition (bullet) was detected in her bag. During the security check, this cartridge was recovered. On verification it was found that the bullet belonged to the husband of the Petitioner, who had a valid Arms License issued from Uttar Pradesh. It is submitted that the possession of the Petitioner was not conscious.

5. Reliance has been placed on Dhanwant Kaur vs. State & Anr. CrI. M.C.3593/2016. It is submitted that Arms Act do not apply to the present case as the acquisition, possession or carrying of minor parts of the arms or ammunition are not intended to be used along with complementary parts acquired or possessed by the Petitioner as provided under Section 45(d) of the Act. Furthermore, *simplicitor* possession without it being conscious would not amount to an offence under the Arms Act.

6. Reliance has also been placed on Gunwantlal vs. the State of Madhya Pradesh, AIR 1972 SC 1756; Sonam Chaudhary and Ors. vs. The State (Govt. of NCT of Delhi) and Ors. CrI. M.C. 471, 3172/2015; Nurit Toker vs. State of Maharashtra, 2012 BomCR (Cri) 154; William Michael Hurtubise vs. State of Odisha and Ors. 117 (2014) CLT 303; and Gaganjot Singh vs. State 2014 Law Suit (Del) 4968.

7. Learned Prosecutor on Advance Notice appears and submits that the Chargesheet already stands filed and the Charges have been framed. There is no valid ground for quashing of the FIR.

8. **Submissions heard.**



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9. Admittedly, one live ammunition has been recovered from the possession of the Petitioner during her baggage scanning at a security check and on the physical checking at IGI Airport, New Delhi, while she was travelling to Mumbai 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.

10. 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 by the Constitution Bench of the Apex Court in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194.

11. In Sanjay Dutt v. State through CBI, Bombay, (1994) 5 SCC 410, 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 unauthorized substance has been understood. (See Warner v. Metropolitan Police



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Commissioner, (1969) 2 A.C. 256 and Sambasivam v. Public Prosecutor, Federation of Malaya, (1950) AC 458."

12. In Gaganjot Singh v. State, MANU/DE/3227/2014, 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 FIR was quashed and the petitioner was discharged.

13. In Chan Hong Siak through Arvinder Singh vs. State & Anr., decided vide CRL.M.C. 3576/2011 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 firearms".

14. 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.

15. The circumstances in which the live cartridge was recovered from her possession have been explained by the petitioner who has stated that she was not even aware of the cartridge in her baggage and that in any; this bullet belonged to the husband of the Petitioner, who has a valid arms license. The circumstances as explained by the petitioner, clearly establish that there was no criminal intent either on part of the Petitioner.



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16. In the light of the aforesaid judgments, the recovery of live cartridge from the bag of the petitioner about which he was not even aware, does not disclose commission of any offence punishable under Section 25 of the Arms Act, 1959.

17. Accordingly, FIR bearing No. 028/2022 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.

18. The present Petition stands disposed of along with the pending Application(s).

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 31, 2025/va