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

+ **W.P.(CRL) 509/2025**

NIRMAL SIDHU

.....Petitioner

Through: **Mr. Ramit Sehrawat, Mr. Manish Sangwan, Advs.**

versus

STATE THROUGH SHO PS DOMESTIC AIRPORT DELHI

.....Respondent

Through: **Mr. Sanjay Lao, Standing counsel with Mr. Priyam Aggarwal, Mr. Abhinav Kumar Arya, Mr. Aryan Sachdeva, IO SI Mukesh Kumar SI Mukesh Kumar, PS Domestic Airport**

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

13.02.2025

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CRL.M.A. 4531/2025

Exemption allowed, subject to all just exceptions.

The application is disposed of.

W.P.(CRL) 509/2025

1. The present writ petition is filed on behalf of the petitioner under Article 226 of the Constitution of India read with 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking quashing of the FIR No. 52/2024 under section 25 Arms Act, 1959 registered at P.S. Domestic Airport, Delhi and all consequent proceedings arising therefrom.



2. On 19/11/2024 at, 03:53 hrs., while traveling from Delhi to Mumbai, during security screening process, 05 ammunitions were recovered from the bag of the petitioner.
3. Learned counsel for the petitioner states that the presence of 05 live cartridges in the bag were not within the knowledge of the petitioner and that the petitioner did not have requisite *mens rea* for committing any offence.
4. Learned counsel further states that the present case is of inadvertence. The baggage carried by the petitioner belonged to him and he carried it to the airport in hurry without having any idea that the said cartridges were present inside the bag without his prior knowledge. The said ammunitions were kept in the bag of sugar monitoring machine, which was kept in the almirah and by mistake, the said bag was kept in his luggage, as he was in a hurry.
5. Further, the petitioner is a valid license holder but the same is restricted to the state of Punjab.
6. Reliance is placed on the judgment of the Hon'ble Supreme Court in ***Gunwantlal v. State of M.P., (1972) 2SCC 194*** wherein it was held that mere possession would not constitute offence and conscious possession would be required. Relevant paras are extracted below:-

“5..... *The possession of a firearm under the Arms Act in our view must have, firstly the element of consciousness or knowledge of that possession in the person charged with such offence and secondly where he has not the actual physical possession, he has nonetheless a power or control*



over that weapon so that his possession thereon continues despite physical possession being in someone else.

The concept of possession is not easy to comprehend as writers of Jurisprudence have had occasions to point out. In some cases under Section 19(1)(f) of the Arms Act, 1878 it has been held that the word “possession” means exclusive possession and the word “control” means effective control but this does not solve the problem. As we said earlier, the first precondition for an offence under Section 25(1)(a) is the element of intention, consciousness or knowledge with which a person possessed the firearm before it can be said to constitute an offence and secondly that possession need not be physical possession but can be constructive, having power and control over the gun, while the person to whom physical possession is given holds it subject to that power and control. In any disputed question of possession, specific facts admitted or proved will alone establish the existence of the de facto relation of control or the dominion of the person over it necessary to determine whether that person was or was not in possession of the thing in question. In this view it is difficult at this stage to postulate as to what the evidence will be and we do not therefore venture to speculate thereon. In the view we have taken, if the possession of the appellant includes the constructive possession of the firearm in question then even though he had parted with physical possession on the date when it was recovered, he will



nonetheless be deemed to be in possession of that firearm.....

(Emphasis added)

7. This Hon'ble Court in catena of judgments including ***Namanpreet S.Dhillon v. State, 2022 SCC OnLine Del 2255*** has quashed the FIR under Section 25 of Arms Act, 1959 on the ground that there was no conscious possession. Relevant paragraphs are extracted below:-

“17. It is apparent from the facts of the case that only a single cartridge has been recovered from the Petitioners and no other fire arm has been recovered from him which makes it clear that the petitioner was not having conscious possession of the live cartridge. This is a testament to the fact that there was no animus possidendi.

18. In light of the mentioned judgments, where the facts are para materia to the facts of the instant case and taking into account the fact that the Petitioner was indeed not unconscious possession the FIR No. 0308/2021 dated 15.11.2021 under Section 25 of the Arms Act, at P.S. IGI Airport against the petitioner is hereby quashed and thus the proceedings emanating there from against the petitioner are also quashed.”

8. It is apparent from the facts of the case as noted above that the petitioner was not in conscious possession of 05 live cartridges, as the same were kept in the bag of sugar monitoring machine and due to in hurry, the said bag was kept in the baggage. Further, the



petitioner is in a position to keep the live cartridges as he has a valid arms license which has been annexed with the present petition as Annexure P-3. Hence, I am of the view that the possession of 05 live cartridges was an act of negligence and inadvertent omission on the part of the petitioner and was not in conscious possession of 05 live cartridges.

9. For the said reasons, the present case could very well be that the petitioner due to oversight and inadvertence carried cartridges in his baggage. However, valuable time of the police as well as judicial time has been wasted on account of carelessness of the petitioner. Hence, the petitioner must pay cost of Rs. 25,000/.
10. Subject to the costs of Rs. 25,000/- to be deposited with Delhi Police Welfare Fund within 4 weeks from today and verification of the arms licence, the aforementioned FIR and all consequential proceedings arising therefrom stand quashed.
11. In case the licence is found fake, the respondent is at liberty to revive the petition.
12. The proof of payment be filed with the Registry within 5 weeks, failing which the matter shall be listed before the Court.
13. The petition along with pending applications, if any, stands disposed of in the aforesaid terms.

JASMEET SINGH, J

FEBRUARY 13, 2025/DM

Click here to check corrigendum, if any