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

+ **W.P.(CRL) 633/2023**

MOHD TARIQUE REHMAN

.....Petitioner

Through: Mr. Nishant Gupta with Petitioner.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Rupali Bandhopadhyaya, ASC with
Mr. Abhijeet Kumar and Mr. Anurag
Arora, Advocates for the State.
SI Kunal Kishor, PS: IGI Airport,
Delhi.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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28.02.2025

1. The present petition filed under Article 226 of the Constitution of India, 1950 seeks quashing of FIR No. 106/2021 dated 29th March, 2021¹ registered at P.S. IGI Airport under Section 25 of the Arms Act, 1959.²

2. Briefly, the case of the prosecution is as follows:

2.1. On 29th March, 2021 a written complaint was received at P.S. IGI Airport through DD No. 16A alleging that during security screening at IGI Airport on 29th March, 2021, a suspicious image in the baggage scanner led to a physical inspection of the Petitioner's bag, tagged under EK-830074. This search revealed the presence of one live round of ammunition. Since

¹ "the impugned FIR"

² "the Arms Act"



the Petitioner failed to produce any valid authorization for possession of the cartridge, the ammunition was seized, and the FIR was registered.

2.2. During the course of investigation, the Petitioner claimed that he was a student in Dublin, South Africa, and had found the cartridge near his residence, keeping it with the intent of making a locket (*tabiz*). The recovered exhibit has been sent for forensic analysis, and the FSL report is awaited.

3. The Petitioner contends that he was undergoing training in South Africa to become a commercial pilot and was sharing a dormitory with other students who frequently borrowed his baggage for trips to shooting ranges for target practice. He asserts that, on one such occasion, his baggage was used by his dormitory mates, and they inadvertently left a live round of ammunition inside. The Petitioner claims that he was completely unaware of its presence and that the recovery was purely accidental, resulting from an oversight in not thoroughly checking his bag before traveling to India.

4. The Court has carefully considered the submissions advanced. The Petitioner holds a commercial aircraft pilot license, and neither he nor any of his family members possess a valid license under the Arms Act. It appears that the cartridge was inadvertently left in his baggage due to an unintentional oversight. The Petitioner remained unaware of its presence until it was detected by security personnel during screening at the airport. Given these circumstances, it can be reasonably inferred that the Petitioner's possession of the cartridge does not fall within the ambit of 'conscious possession.'

5. This Court in ***Sonam Chaudhary v. The State (Government of NCT***



of Delhi),³ *Mitali Singh v. NCT of Delhi and Anr.*⁴, *Sanjay Dutt v. State through CBI Bombay (II) Crimes*⁵ as well as *Rahul Mamgain v. State of NCT of Delhi and Anr.*⁶ has, consistently quashed FIRs in cases where the possession of a firearm or ammunition was found to be inadvertent and did not constitute ‘conscious possession.’

6. Applying the same principles to the present case, it is evident that the Petitioner had no knowledge of the presence of the ammunition in his baggage. The doctrine of conscious possession requires not only physical possession but also awareness and intent, neither of which are established here. The material on record does not suggest any *mens rea* or culpable intent on the part of the Petitioner, nor does it indicate that the ammunition was carried for any unlawful purpose. The Petitioner’s explanation, that the cartridge was mistakenly left in his bag by others who borrowed it, is plausible. Moreover, no firearm was recovered from the Petitioner, and there is no allegation that he attempted to use the ammunition in any manner that posed a threat to public safety. Given that criminal liability under the Arms Act is stringent and must be construed strictly, the absence of any incriminating circumstances further reinforces the conclusion that the Petitioner does not fall within the mischief sought to be prevented by the statute. Consequently, no offence under Section 25 of the Arms Act is made out against the Petitioner.

7. Additionally, the Petitioner has no criminal antecedents, and the registration of an FIR in such circumstances would serve no legitimate

³ 2016 SCC Online Del 47, CrI. M.C. 471/2015

⁴ W.P.(CrI.) 2095/2020

⁵ 1994 (3) 344 (SC)

⁶ CrI. M.C. 3783/2022 decided on 17th August, 2022



purpose other than subjecting him to undue harassment and prolonged litigation. The Supreme Court has repeatedly held that criminal proceedings should not be permitted to continue when they amount to an abuse of the process of law. In the absence of any legal or factual basis to sustain the prosecution, allowing the proceedings to continue would be a manifest miscarriage of justice.

8. The Court is of the opinion that while no case for prosecution is made out, the Petitioner's lack of vigilance led to unnecessary involvement of the state machinery, which could have been avoided with greater care. Since the security agencies are required to treat all such incidents with seriousness, irrespective of intent, the initiation of criminal proceedings was a natural consequence of the lapse on the Petitioner's part. Accordingly, while the FIR is being quashed, this Court deems it appropriate to impose costs on the Petitioner, as a measure to serve the ends of justice.

9. In view of the above, the impugned FIR No. 106/2021 registered at P.S. IGI Airport, New Delhi under Section 25 of the Arms Act is hereby quashed, subject to payment of cost of INR 25,000/- with the Delhi Police Welfare Fund, by the Petitioner.

10. The proof of deposit be placed on record within a period of 15 days from today.

11. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

FEBRUARY 28, 2025

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