



2025:DHC:1342



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

% ***Date of decision: 27th February, 2025***

+ **W.P.(CRL) 674/2025**

DEVENDRA KUMAR MISHRAPetitioner

Through: **Mr. Vikas Nain, Mr. Rohit Yadav,
Ms.Shashi Bala and Ms.Neelam,
Advocates**

Versus

**THE STATE OF NCT OF DELHI THROUGH SHO, P. S.
DOMESTIC AIRPORT**Respondent

Through: **Mr. Yasir Rauf Ansari, Additional
Public Prosecutor for Respondent-
State**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Article 226 of the Constitution of India and under Section 482 Cr.P.C. has been filed for quashing of FIR No. 19/2022, under Section 25 Arms Act, 1959, Police Station Domestic Airport, New Delhi.
2. It is submitted in the Petition that on 25.05.2022 while the Petitioner was travelling from New Delhi to Mumbai by Flight No. 6E-6278, during screening of his baggage, 10 live cartridges and 3 empty cartridges, were recovered from his bag. Consequently, the present FIR was registered.
3. It is submitted that the Petitioner had disclosed that these live cartridges belonged to him as he had valid license till 31.12.2016 in the



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State of UP. The Petitioner was released without arrest.

4. Quashing of the FIR is sought on the ground that the Petitioner is highly educated, responsible and law abiding citizen of the country, working as a Government Servant with Government of Uttar Pradesh having deep roots in the society. The Petitioner has never been involved in any criminal case. There is no *mens rea* on the part of the Petitioner for committing any offence, as alleged in the FIR. The Petitioner did not commit any offence as mentioned in the FIR. There was no attempt to conceal the cartridges as the bag was handed over for X-ray screening.

5. Reliance is placed on Gunwantlal vs. State Of M.P., (1972) 2 SCC 194. Furthermore, the recovery of live ammunition does not amount to commission of offence under Section 25 of the Arms Act, in view of the fact that bullets are only “a minor part of ammunition” and falls within the ambit of Section 45(d) of the Act. Further, Section 25 of the Act provides that possession of any fire arm/ ammunition must be a conscious possession.

6. Reliance has been placed on Chang Hong Saik Through SPA Arvinder Singh Vs. State, 2012 130 (DRJ) 504 wherein FIR was quashed observing that such recovery of ammunition being minor part of the ammunition, as envisaged under Section 45(d) of the Arms Act.

7. Reliance has also been placed on Sanjay Dutt vs. State, 1994 (5) SCC 410 and Nurit Toker Vs. State of Maharashtra, 2012 (BOMCR (CRI) 154, which has been followed in William Michael Hurtubise Vs. State Of Odisha And Ors. 117 (2014) CLT 303.

8. It is therefore submitted that the FIR No.19/2022 under Section 25



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Arms Act, be quashed.

9. Learned Additional Public Prosecutor for Respondent-State submits that the pass-port had been presented by the Petitioner which has been checked and found to be genuine by the State of Uttar Pradesh.

10. Submissions Heard.

11. Admittedly, 10 live cartridges and 3 empty cartridges have been recovered from the possession of the Petitioner during his baggage scanning at a security check and on the physical checking at IGI Airport, New Delhi, while he was travelling to Mumbai from New Delhi.

12. As has been held in a catena of judgments even single ammunition recovered from the possession of a person, amounts to recovery of ammunition. In Ritesh Taneja vs. State and Anr., 2022 SCC OnLine Del 971, it has been explained by the Co-ordinate Bench of this Court that conscious possession of any firearm/ammunition entails strict liability on the offender.

13. 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.

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

15. 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.

16. 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".



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17. 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.

18. The circumstances in which the live cartridges were recovered from his possession have been explained by the petitioner who has stated that he was not even aware of the cartridges in his baggage and in any case, he has an arms license valid in the State of U.P. The circumstances as explained by the petitioner, clearly establish that there was no criminal intent either on part of the Petitioner. It can be safely inferred that presence of the cartridges in the bag was without the knowledge of the Petitioner and he did not have the requisite *men rea*.

19. In the light of the aforesaid judgments, the recovery of live cartridges 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.

20. Accordingly, FIR bearing No. 19/2022 registered at Police Station IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating there from are quashed.

21. The present Petition along with pending Application(s), if any, is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 27, 2025/r