



2025:DHC:2203



\$~50

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

%

Date of decision: 28th March, 2025

+

W.P.(CRL) 997/2025**KUNAL KHATRI**

.....Petitioner

Through: Counsel for Petitioner (appearance
not given)

versus

STATE NCT OF DELHI

(Through It's SHO Concern PS: DOMESTIC AIRPORT)

.....Respondent

Through: Mr. Rahul Tyagi, ASC (Crl.) with Mr.
Mathew M. Philip, Mr. Sangeet Sibou
and Mr. Aniket Kumar Singh,
Advocates for State.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CRL.M.A. 9419/2025 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The Application is disposed of accordingly.

W.P.(CRL) 997/2025

3. The present Petition under Article 226/227 of the Constitution of India read with Section 582 of the *Bharatiya Nagrik Suraksha Sanhita, 2023* (hereinafter referred to as 'B.N.S.S. ') has been filed for quashing of FIR No.



2025:DHC:2203



20/2024 u/s 30 Arms Act, 1959 registered at PS Domestic Airport, New Delhi.

4. It is submitted that on 19.04.2024, an FIR 20/2024 was registered under Section 30 Arms Act, 1959 wherein it was alleged that during the pre-embarkation security check, one live ammunition mark K.F. – 7.55 caliber was recovered from the handbag of the Petitioner-Mr. Kunal Khatri, who was travelling to Goa by Flight No. 6E-6576.

5. Quashing of the FIR is sought on the ground that the Petitioner holds a valid Arms License bearing no. 383/V/DM/JJR/2023 issued by the Licensing Authority i.e. District Magistrate, Jhajjar, Haryana and live ammunition/cartridges pertains to the same licensed weapon.

6. It is further submitted that the Petitioner was *not in conscious possession of the live cartridge/ammunition* nor was he aware of its existence in his hand bag which was checked during the security check and the live cartridge was found and seized by the officials.

7. Reliance is placed on Shafeek Ahmad v. State (NCT of Delhi) W.P. (Crl) 459/2022 dated 15.03.2024 wherein a coordinate bench of this Hon'ble Court held that no offence under the Arms Act, 1959 would be made out if the person in possession of the ammunition was not aware of its existence.

8. **Submissions Heard.**

9. Admittedly, one live ammunition has been recovered from the possession of the Petitioner during his baggage scanning at the Security check and on the physical checking at IGI Aiport, New Delhi.

10. As has been held in a catena of judgments, even single ammunition recovered from the possession of a person, amounts to recovery of



2025:DHC:2203



ammunition. However, the possession has to be conscious to impute any culpability. The pre-condition for an offence under 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 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.

12. 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."



13. 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.

14. 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*".

15. 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.

16. The circumstances in which the live cartridges were recovered from his possession, has 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 a valid Arms License bearing no. 383/V/DM/JJR/2023 in the State of Haryana. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on his part. It can be safely inferred that presence of the cartridges in the bag was without the knowledge of the



2025:DHC:2203



Petitioner and he did not have the requisite *men rea*, to disclose commission of any offence punishable under Section 30 of the Arms Act, 1959.

17. Accordingly, FIR bearing No. 20/2024 registered at PS Domestic Airport, for offence punishable under Section 30 of the Act, 1959 and all consequential proceedings emanating therefrom, are quashed.

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

(NEENA BANSAL KRISHNA)
JUDGE

MARCH, 28, 2025/RS