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

+ W.P.(CRL) 1175/2024

R. DEEPAK

.....Petitioner

Through: Ms. Akanshi Rawat, Adv.

versus

STATE OF NCT OF DELHI THROUGH SHO

IGI AIRPORT POLICE STATION

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC with
Mr. Alok Sharma, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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29.10.2025

1. Petition has been filed under Article 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C"*) has been filed on behalf of the **Petitioner/R. Deepak** seeking quashing of FIR No. 128/2020 under Section 25 of the Arms Act, 1959 registered at P.S. I.G.I. Airport.
2. **Briefly stated**, on 14.03.2020, at about 15:30, while travelling from New Delhi to Chennai by Air Asia Flight No. 15-765, during the scanning of the baggage at IGI Airport, 02 live cartridges were recovered from the Petitioner's bag.
3. The **Petitioner has sought quashing of the said FIR on the ground** that he was not aware of the existence of two live cartridges. The alleged recovery was purely inadvertent and was an unintentional mistake, as he voluntarily submitted the bag for X-ray screening, where such items are easily detectable unless concealed. He inadvertently left the cartridges in the bag while packing, without any knowledge or intent to commit an offense, relying on the Supreme Court decision in Gunwantlal vs. State of M.P.,



(1972) 2 SCC 194 to support the absence of criminal intent.

4. The Petitioner explained that he had borrowed his father's bag for travel purposes, and the live cartridges found therein were related to him. It is submitted that his father served as an Inspector with CRPF and that he inadvertently left the cartridges inside the baggage without cleaning it. Due to the rush to board the flight, the Petitioner couldn't inspect the bag, leading to the inadvertent presence of the two live cartridges in his luggage.

5. The recovery of mere live cartridges, described as a "*minor part of ammunition*," does not constitute an offense under Section 25 of the Arms Act, as it falls within the exception under Section 45(d), which exempts possession of minor parts not intended for use with complementary components. Settled law, as clarified by the Supreme Court in Sanjay Dutt vs. State, (1994) 5 SCC 410 establishes that "*possession*" under the Arms Act requires conscious possession with a mental element, not mere custody without awareness.

6. It is submitted that the Chargesheet in the present case is yet to be filed.

7. The **Ld. Public Prosecutor has vehemently opposed the Petition** on the ground that the Petitioner was caught with two live cartridges which is an offence under the Arms Act.

Submissions heard and record perused.

8. Admittedly, two live cartridges were recovered from the bag of the Petitioner during his baggage scanning at the I.G.I. Airport on 12.04.2025.

9. 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, (supra).

10. 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 it is the conscious possession of any firearm/ammunition which entails strict liability on the offender.

11. While deciding a similar matter, Co-ordinate bench of this Court in Mitali Singh vs. NCT of Delhi & Anr., W.P.(CRL) No. 2095/2020 decided on 15.12.2020, observed, “*The courts have in a number of decisions held that the conscious possession of an ammunition is sine qua non to prosecute the possessor under the Arms Act, 1959.*”

12. In Sanjay Dutt, (supra), 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 vs. 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. Similar, observations have been 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 cartridges were recovered from the Petitioner have been explained by him, who stated that he was not even aware of the cartridges in his suitcase. The ammunition belonged to his father who served in the CRPF as a Sub-Inspector. The Petitioner was using his father's bag and due to an oversight, failed to thoroughly check the same before placing his clothes therein. These cartridges remained unnoticed in the bag, ultimately leading to the present case.

16. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on his part. It is evident from the explained circumstances that the recovery of cartridges from the bag of the Petitioner was without his knowledge and he did not have the requisite *men rea*.

17. It is thus, held that the possession of two cartridges was not conscious possession and does not disclose commission of the offence punishable under Section 25 Arms Act, 1959.

18. Accordingly, **FIR No. 128 /2020 under Section 25 of the Arms Act, 1959** at P.S. I.G.I. Airport and all consequential proceedings emanating therefrom, are **quashed**.



19. The Petition is accordingly disposed of.

OCTOBER 29, 2025/R

NEENA BANSAL KRISHNA, J.