



\$~50

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

+ **W.P.(CRL) 1732/2025**

SHUKLA DHIREN BHAI MAHENDRA KUMARPetitioner

Through: Mr. Abhishek Singh and Mr.
Shubham Jain, Advocates alongwith
petitioner in person

versus

STATE GOVT. OF NCT DELHIRespondent

Through: Ms. Rupali Bandhopadhyaya ASC with
Mr. Abhijeet Kumar and Ms. Amisha
Gupta, Advocates

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER
14.07.2025

%

1. By way of this writ petition, the petitioner seeks quashing of FIR bearing no. 0110/2024, dated 07.02.2024, registered at Police Station IGI Airport, New Delhi, for the commission of offence punishable under Section 25 of the Arms Act, 1959, and all the proceedings emanating therefrom.
2. The petitioner is present before this Court, and has been identified by his counsel and Investigating Officer (IO) concerned from P.S. IGI Airport, New Delhi.
3. Brief facts of the present case are that on 06.02.2024, the incident in question had taken place at IGI Airport, Delhi, when the petitioner was travelling from Delhi to Ahmedabad by Akasa Air Flight Number QP-1146, and one live cartridge had been recovered from his baggage, in the presence



of petitioner and the security officials, during the screening of his check-in baggage. Subsequently, in this regard, the present FIR was registered. It is stated that the petitioner was released on bail by the Investigating Officer.

4. The learned counsel appearing for the petitioner submits that the single live cartridge which was recovered from the bag of the petitioner while travelling from New Delhi to Ahmedabad, could not be removed from his bag due to sheer oversight, inasmuch as he is a valid Arms Licence Holder and has been using the said bag in the past. The learned counsel submits that it could be possible that the live cartridge may have been left behind inadvertently by him. The learned counsel submits that the petitioner was not in conscious possession of the said live cartridge, and therefore *mens rea* could not be attracted in the present case. In these circumstances, it is prayed that the present petition be allowed.

5. This Court's attention has been drawn to the judgment of the Constitutional Bench of the Hon'ble Supreme Court in the case of ***Gunwantlal v. The State of Madhya Pradesh: (1972) 2 SCC 194***, wherein the Court explained the meaning of possession in the context of Section 25 of the Arms Act as under:

“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 none-the-less a power or control over that weapon so that his possession thereon continues despite physical possession being in someone else. If this were not so, then an owner of a house who leaves an unlicensed gun in that house but is not present when it was recovered by the police can plead that he was not in possession of it even though he had himself consciously kept it there when he went out. Similarly, if he goes out of the house during the day and in the meantime someone conceals a pistol in his house and during his absence, the police arrives and discovers the pistol he cannot be



charged with the offence unless it can be shown that he had knowledge of the weapon being placed in his house. And yet again, if a gun or firearm is given to his servant in the house to clean it, though the physical possession is with him nonetheless possession of, it will be that of the owner. The concept of possession is not easy to comprehend as writers of (sic) 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."

6. In ***Chan Hong Saik Thr. Spa: Arvinder Singh v. State & Anr: 2012 SCC OnLine Del 3320***, following observations were made by a Co-ordinate Bench of this Court:

"38. In the present case, single live cartridge which is found without any fire arm and specially at the stage when he was to leave this country to his native country.

39. The case of the prosecution is not that he extended any threat to any of the authority or the fire arms or ammunition was found with any of this group persons including his own son who was travelling with him.

43. Single live cartridge cannot be used for any threat purpose without fire arms. Value of the same in the market is also not attractive. It cannot be used for any third purpose. If the intention of the petitioner was not of either of the purpose mentioned above, then he cannot be held guilty and punished for the charge framed against him.

45. Though, the petitioner has not admitted recovery of the cartridge and claimed trial, however, even if it is admitted, in my considered view, he cannot be punished for the charge framed against him because a single cartridge without fire arm is a minor ammunition which is protected under clause (d) of section 45 of the Arms Act..."



7. Status Report has been filed on record. As per Status Report, the Arms Licence No. LNI12218F7A25420/SNR-II-24/2002, of the present petitioner, was verified from the office of the District Magistrate, Surendranagar District, Gujarat. As per verification report, the Arms Licence is genuine and valid from 31.12.2022 till 30.12.2027 in the territory of the State of Gujarat. Undisputedly, no weapon except for one ammunition as mentioned above was recovered from the petitioner. There is nothing on record to suggest that the petitioner was in conscious possession of the cartridge and he was aware of the said fact. Mere recovery of one single cartridge itself is not sufficient to prove the offence in the absence of any intention. It is also a matter of record that the petitioner is a valid Arms Licence holder.

8. In view of the above facts, this Court is of the opinion that no useful purpose will be served by continuing the proceedings against the petitioner. Hence, it would be in the interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

9. Accordingly, FIR bearing no. 0110/2024, registered at Police Station IGI Airport, New Delhi for the commission of offence punishable under Section 25 of Arms Act, and all consequential proceedings emanating therefrom are quashed, subject to petitioner depositing a cost of Rs. 20,000/- with the Advocates Welfare Fund, Delhi High Court, within a period of 10 days from date and filing the compliance of the same with the Registry of this Court.

10. In view of the above, the present petition stands disposed of.



11. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 14, 2025/ns