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

+ CRL.M.C. 8051/2023

VINOD

.....Petitioner

Through: Mr. Robin Bhardwaj and Ms.
Vandana, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

16.05.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') has been filed seeking quashing of FIR No. 27/2022, under Sections 25/54/59 of the Arms Act, 1959, registered at P.S. Metro Police Station Azadpur, along with all other consequential proceedings emanating therefrom including the chargesheet pending in the Court of Ms. Sanya Dalal, JMFC-01, North West District, Rohini Courts, Delhi.
3. The case of the prosecution is that on 02.07.2022, the complainant, Ct. Ravi Kumar, CISF, was on duty at Jahangirpuri Metro Station and was checking the baggage of the passengers through X-Bis machine. At around noon, he observed a cartridge-like thing in a light green colour bag on the scanning screen. Thereafter, the passenger along with his bag was stopped.

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On physical checking of the bag in the presence of the passenger, from the small side pocket of the bag, four live cartridges of 8 mm were recovered. On enquiry, the name of the passenger was disclosed as Vinod, the present petitioner. On the statement of Constable of CISF, the present FIR under Section 25 of the Arms Act, 1959 was registered at P.S. Metro Police Station Azadpur against the present petitioner. During the course of investigation, the petitioner disclosed that he had taken the cartridges from a person, namely, Rahul whose whereabouts he did not disclose. Thereafter, the recovered cartridges were sent to the FSL for examination and the same were found to be ammunition as per Arms Act.

4. After the receipt of the FSL results, sanction under Section 39 of the Arms Act, 1959 was obtained and on completion of investigation, the chargesheet was filed before the Court of competent jurisdiction on 05.11.2022 for the offences punishable under Sections 25/54/59 of the Arms Act, 1959 arraying the present petitioner as accused. Thereafter, the learned Trial Court took cognizance of the offences alleged against the petitioner and issued summons to him.

5. Learned counsel for the petitioner submits that the latter was not aware of the fact that there were four live cartridges in the baggage. It is the case of the petitioner that he was travelling along with his sister and the bag belonged to her from which the said cartridges were recovered. It is further submitted that mere possession without conscious possession does not constitute an offence punishable under Section 25 of the Arms Act. Further, the provisions of the Arms Act do not apply in certain cases where the acquisition, possession or carrying of minor parts of arms and ammunition which are not intended to be used along with complimentary parts acquired

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or possessed by that or any person. Reliance has been placed on order dated 23.04.2025 passed by a Coordinate Bench of this Court in **W.P.(CRL) 1166/2025** titled as '**Jatinder Singh v. State NCT of Delhi & Anr.**' wherein, a case involving similar facts, the Court had quashed the FIR. Reliance has also been placed on **Gunwant Lal v. State of Madhya Pradesh, AIR 1972 SC 1756** and **Sanjay Dutt v. State through CBI, Bombay, (1994) 5 SCC 410**.

6. *Per contra*, learned APP for the State submits that the subject cartridges were recovered from baggage of the present petitioner during checking by the complainant. He further submits that upon enquiry by the complainant, the petitioner clearly stated that he had taken the said cartridges from one Rahul but did not disclose the latter's whereabouts.

7. Heard learned counsel for the parties and perused the records.

8. As per the case of the prosecution, four live 8mm cartridges were recovered from the baggage of the petitioner, during the physical checking/screening, by the complainant at the Jahangirpuri, Metro Station. It is pertinent to note that, as per the case of the prosecution, the petitioner had disclosed that he had bought the said cartridges from one Rahul, however, the said Rahul could not be traced during the investigation. The seizure memo dated 02.07.2022 of the bag from which the four live cartridges were recovered reflects that the said bag contained certain clothing including *saree*, *salwar*, bed sheets etc. During investigation, it was revealed that the petitioner resides with his family in Narela and they are six siblings. The case of the petitioner is that he was travelling along with his sister when the subject cartridges were recovered from the bag, which belonged to his sister, at the Jahangirpuri Metro Station.

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9. In **W.P.(CRL.) 754/2020** titled as ‘**Adhiraj Singh Yadav v. State**’, *vide* order dated 31.12.2020, Coordinate Bench of this Court quashed an FIR registered in similar circumstances by observing as under: -

“12. In view of the above, it is well settled that an offence under Section 25 of the Arms Act would not be made out in cases where the suspect was not conscious that he was in possession of live ammunition.

14. This Court has in several cases held that unconscious possession would not attract the rigours of the said Act. [See: **Surender Kumar @ Surender Kumar Singh v. The State (GNCT of Delhi) &Anr.: W.P. (Crl) 2143/2019 decided on 27.09.2019; Aruna Chaudhary v. State &Ors.: W.P. (Crl.) 1975/2019 decided on 25.09.2019 and Paramdeep Singh Sran v. The State (NCT of Delhi) W.P.: (Crl) 152/2019 decided on 29.08.2019**].”

10. Further, a Coordinate Bench of this Court in **Namanpreet S. Dillon v. State, 2022:DHC:2864**, while quashing a FIR wherein one cartridge was recovered, had observed as under:-

“11. Extrapolating from the principles enunciated in the above judgements, ‘conscious possession’ is a core ingredient to establish the guilt for offences punishable under the Arms Act, 1959. Mere possession without the awareness cannot make the accused liable of the offence.

12. In the instant case, the claim of the Petitioner is that his Paternal Uncle (Tayaji) Sh. Palwinder Singh Dhillon had an arms licence and it was his cartridge that inadvertently remained in the pocket of his trouser which was detected by the X-ray Machine at the Departure Hall at the IGI Airport.

13. It is very much evident from the facts that the Petitioner was indeed not in conscious possession of the cartridge but rather inadvertently carried it with him during the X-ray Scan.

15. It is apparent from the facts of the case that only a single cartridge has been recovered from the Petitioners and no other fire arm has been recovered from him which makes it clear that the petitioner was not having conscious possession of the live cartridge. This is a testament to the fact that there was no *animus possidendi*.

16. In light of the mentioned judgements, where the facts are para

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materia to the facts of the instant case and taking into account the fact that the Petitioner was indeed not in conscious possession the FIR No. 0308/2021 dated 15.11.2021 under Section 25 of the Arms Act, at P.S IGI Airport against the petitioner is hereby quashed and thus the proceedings emanating there from against the petitioner are also quashed.”

11. In the present case, the allegation is of carrying 04 live 8mm cartridges without authorisation. The case of the petitioner is that the same were put in the bag by someone while he was travelling in public transport. Perusal of the seizure memo shows that the bag from which the said cartridges were recovered contained some apparels of female, children and household things. The petitioner has clean antecedents and the circumstances show that he was not aware of the presence of the said cartridges in the bag. As per the final report, nothing has come on record to doubt the explanation given on behalf of the petitioner.

12. In view of the aforesaid facts and circumstances of the present case and in the interest of justice, this Court is inclined to quash the FIR No. 27/2022, under Sections 25/54/59 of the Arms Act, 1959, registered at P.S. Metro Police Station Azadpur and all other consequential proceedings emanating therefrom including the chargesheet pending in the Court of Ms. Sanya Dalal, JMFC-01, North West District, Rohini Courts, Delhi.

13. The present petition is allowed and FIR No. 27/2022, under Sections 25/54/59 of the Arms Act, 1959, registered at P.S. Metro Police Station Azadpur and all other consequential proceedings emanating therefrom including the chargesheet pending in the Court of Ms. Sanya Dalal, JMFC-01, North West District, Rohini Courts, Delhi.

14. Pending application(s), if any, also stand disposed of accordingly.

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15. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.
16. Order be uploaded on the website of this Court *forthwith*.

MAY 16, 2025

AMIT SHARMA, J

Click here to check corrigendum, if any

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