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

+ **W.P.(CRL) 2389/2024 & CRL.M.A. 23376/2024**

FRANCOIS LE MIERE

.....Petitioner

Through: Mr. Avi Singh, Sr. Adv., with Mr.
Shikhar Garg and Mr. Kirti Raj,
Advocates

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Anand V Khatri, ASC (Crl.) for
the State
SI PR Hudda, PS IGI Airport

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **27.02.2025**

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking quashing of the FIR No.564/2024 dated 05.08.2024, registered at P.S IGI Airport, Delhi for the offence punishable under Section 25 of the Arms Act, 1959 ('Arms Act') and all proceedings emanating therefrom.

2. It is stated in the writ petition that the Petitioner is a citizen of France and came to India on 01.07.2024 to visit his fiancée, who is volunteering with an NGO named 'Jeanamitabh France,' in Bodh Gaya, Bihar. It is stated that the Petitioner was travelling back to France on 05.08.2024 however, he was not permitted to board his flight as during X-ray screening one (1) live bullet was detected from the luggage of the Petitioner and the subject FIR



was lodged against the Petitioner under Section 25 of the Arms Act.

3. Learned senior counsel for the Petitioner states that presence of a one (1) live bullet in the luggage of the Petitioner was not in the knowledge of the Petitioner. He states that the same was not detected in the luggage of Petitioner while travelling from France to India and subsequent domestic travel within India. He places reliance upon a Judgment passed by coordinate bench of this Court in **Baljit Fantu vs. State, Govt. of NCT Delhi and Another**¹ and **Arasdeep Singh v. State of GNCTD**², to state that this does not amount to conscious possession.

3.1. He states that there is no allegation qua recovery of any firearm from the Petitioner.

3.2. He states that that the Petitioner has a valid hunting licence issued by the French government, which permits him to bear arms on French soil for the specific purpose of hunting and the recovered bullet accidentally came in his jacket when the Petitioner was travelling from France to India. He states that the said Arms Licence stands verified and the copy of the same was provided to the Police Authorities during the investigation of the subject FIR and a certified/apostilled of the same was provided to the DCP PS. IGI Airport vide letter dated 30.08.2024.

3.3. He states that the said bullet in terms of its make and quantity, is clearly covered under the exception of s. 45(d) of the Arms Act under which acquisition, possession or carrying of minor parts of arms or ammunition which is not intended to be used along with complementary parts acquired are exempted from being covered under the Arms Act.

¹ 2021 SCC OnLine Del 3705

² 2024 DHC 7391



4. Learned APP confirms the submissions advanced by the learned counsel for the Petitioner and states that the Petitioners hunting licence bearing no. 201905080157-14-A has been verified by the Embassy of France in India through the Ministry of External Affairs, Government of India and found to be valid.

4.1. He has handed over a supplementary status report dated 25.02.2025. He is directed to have the same placed on record.

5. This Court has heard the submissions of the learned counsel for the parties and perused the record.

6. It is settled law that that the expression 'possession' occurring in the Section 25 of the Arms Act means possession involving element of consciousness or knowledge of that possession. Therefore, mere custody without the element of consciousness or knowledge of that possession does not amount to any offence under the Arms Act, 1959 as has been held in the judgments of the Constitution bench of Supreme Court in **Gunwant Lal vs. The State of Madhya Pradesh**³, and **Sanjay Dutt v. State**⁴.

7. This position of law has also been confirmed by the Division Bench of this Court in **Sh. Gaganjot Singh v. State**⁵ in near similar facts, where the Division Bench ruled that reasonable suspicion of accused's involvement in an offence has to be based on proven conscious possession. The relevant extract of the said Judgement reads as under :-

12. As noticed previously, a solitary cartridge – which on examination by expert has been confirmed to be a live one -was found by the police. The petitioner was in possession of it. However, he expressed his lack of awareness of that article; and

³ (1972) 2 SCC 194

⁴ (1994) 5 SCC 410

⁵ 2014:DHC:6591-DB



also that the bag from which it was recovered belonged to his uncle. The Police, in the final report, does not indicate that his statement is groundless; there is no material to show that he was conscious of his possession of the cartridge. Though the ballistic report confirms it to be cartridge and consequently it is “ammunition”, by itself, that is insufficient to point to suspicion – much less **reasonable suspicion of petitioner’s involvement in an offence which, necessarily, has to be based on proven conscious possession. Since there is no such material, the offence cannot be proved even after a trial, which would have to proceed, if at all, on the interpretation of the Act placed by the decisions in Gunwantal (supra) and Sanjay Dutt (supra).**

(Emphasis Supplied)

8. In the present case though the Petitioner was in possession of the said single bullet, however, the single bullet was found without any corresponding fire arm and especially at the stage when he was to leave India at the IGI Airport for his country France.

9. The Petitioner has taken a categorical position that he was not in a conscious position of the same and neither any material on record has been placed by the prosecution to show that the Petitioner was conscious of his possession of the single bullet in his baggage. Therefore, on the basis of mere possession of a single live cartridge without having any criminal intention, the proceedings cannot continue qua the petitioner under the Arms Act.

10. In the instant case, it is also not the case of the prosecution that the Petitioner at the relevant time extended any threat to any of the authority. Further with the single bullet recovered no corresponding firearm was found from the Petitioner. Therefore, there could not have been any threat to any person at the Airport.



11. Further, it would also be apposite to refer to the judgments passed by the Coordinate Benches of this Court in **Golap Saikia v. State (NCT of Delhi)**⁶, **Narendra Kumar Gupta v. State of NCT of Delhi**⁷, and **Arasdeep Singh (supra)** wherein it has been held that the absence of the fire-arm indicates that the accused was not having conscious possession of the live cartridges and further held that no offence under Section 25 of Arms Act is made out. The FIRs were, therefore, quashed by the Court in such facts.

12. In light of the aforesaid judgments and the uncontroverted position taken by the Petitioner that he was not in conscious possession and in absence of no corresponding fire-arm or weapon recovered, this Court is of the view that the Petitioner was not in the conscious possession of the recovered live bullet and therefore, he cannot be said to have committed an offence under section 25 of the Arms Act and present FIR deserves to be quashed. In the facts of this case, the Petitioner also held a valid hunting licence in this Country and therefore his acquisition of the single cartridge was valid in his home country.

13. With respect to the second contention of the Petitioner that the single live bullet recovered from the luggage of the Petitioner is protected under Section 45(d) of the Arms Act is misconceived. In this regard it would be apposite to refer to the Judgement of Division Bench in **Gaganjot Singh (Supra)** wherein the division bench clarified that a single whole cartridge is not a part of an ammunition; but it is a whole ammunition, nor can it be called a "minor ammunition" therefore the exemption under Section 45(d) of

⁶ 2017 SCC OnLine Del 7680

⁷ 2021 SCC Online Del. 2335



the Arms Act would not be applicable. The relevant extract of the said Judgement of division bench reads as under :-

16. The structure of Section 45(d)- is that it is only “minor parts of arms or ammunition” that are “not intended to be used along with complementary parts” which can be excluded from the application of the Act. There cannot be any question as to which category a live cartridge falls into; it is clearly whole or entire or “ammunition”, given the inclusive nature of the definition under Section 2(d). The reasoning in Chang Hong Saik (supra), in this Court’s opinion, has proceeded without appreciation of Section 2(b) and the fact that there is no term as “minor ammunition ” in that provision. **A single whole cartridge is not a part of an ammunition; it is a whole ammunition, nor can it be called a "minor ammunition". Having regard to the facts of Chang Hong Saik (supra), the Court is of the opinion that the interpretation placed upon the expression “ammunition”, i.e. that the whole live cartridge is a minor ammunition falling within Section 45(d), is plainly contrary to the Act and erroneous.** The said view is accordingly overruled. The conclusion, however, in the facts of that case appears to have been warranted, since the police could not disclose any intention on the part of the alleged offender in that case. The reference made to the Division Bench is answered accordingly.

(Emphasis Supplied)

This submission of the Petitioner is therefore without any merit and rejected.

14. The Petitioner has however succeeded in his first contention with respect to no conscious possession, accordingly, FIR No.564/2024 dated 05.08.2024, registered at P.S IGI Airport, Delhi, is hereby quashed, including all proceedings emanating therefrom.

15. This order may be placed before the Trial Court by the Petitioner and the I.O. so that the proceedings emanating from the aforesaid FIR can be closed.

16. The present petition along with pending application is disposed of.

17. The digitally signed copy of this order, duly uploaded on the official



website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
FEBRUARY 27, 2025/AKT/mt
[Click here to check corrigendum, if any](#)