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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2788/2025 & CRL.M.A. 26265/2025**
VISHWAJIT JOSHIPetitioner

Through: Mr. Devinder Singh, Advocate.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Sanjay Lao, SC.
W/SI Jyoti Singh, P.S. IGI Airport.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
03.09.2025

1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 0566/2025 dated 13th August, 2025, registered under Section 25 of the Arms Act, 1959³ at P.S. IGI Airport, Delhi and all consequential proceedings emanating therefrom.
2. The case of the prosecution is that on 12th August, 2025, at around 11:14 PM, during the screening of baggage bearing tag no. AF 0057213810 at Level-2, Terminal-3, IGI Airport, New Delhi, suspicion arose regarding the presence of undeclared ammunition. The said baggage belonged to one

¹ "BNSS"

² "CrPC"



Vishawjit Joshi, the Petitioner, who was scheduled to travel from Delhi to Paris by Air France Flight No. AF-225 early the next morning. It is alleged that upon physical search of the baggage at Level-4, in presence of the passenger and airline staff, one live cartridge was recovered. The cartridge bore the engraving “SIC 9mm LUGER” and measured approximately 2.5 cm in length and 0.9 cm in diameter. The same was seized, sealed in a Pulinda, and taken into police possession. The Petitioner failed to produce any valid licence, authority or document permitting the possession or carriage of the said ammunition within the premises of the Airport. Thereafter, on the complaint of Mr. Sanjay Singh Khatri, Sr. Associate, DIAL Security and Vigilance, Terminal-3, the matter was reported to P.S. IGI Airport, Delhi, wherein he identified both the cartridge and the accused Petitioner. Consequently, the impugned FIR was registered against the Petitioner.

3. Counsel for the Petitioner submits that although the Petitioner possesses a valid Firearm Safety Certificate, issued by the Californian Department of Justice, he was not in conscious possession of the live ammunition recovered from his baggage and had no knowledge of its presence. The Petitioner is otherwise having clean antecedents and did not try to conceal the presence at any stage, offering an explanation to the security personnel when called upon to do so. The presence of the live ammunition was purely because of an inadvertent oversight. In the fact and circumstances of the case, ends of justice would be served if the present FIR is quashed.

4. The Court has considered the afore-noted facts and submissions.

³ “Arms Act”



Although it is noticed that the Petitioner purportedly holds a valid Firearm Safety Certificate issued by the competent authority in California, the same has no applicability or legal effect within the territory of India. Nevertheless, the mere recovery of a single cartridge from the baggage of the Petitioner, absent any accompanying firearm or other incriminating material, cannot by itself establish that the Petitioner was in conscious and unlawful possession of the ammunition. The material placed before the Court indicates that the Petitioner was unaware of the presence of the cartridge until its discovery during the baggage screening. The absence of any attempt at concealment, coupled with the Petitioner's clean antecedents and immediate cooperation with the security personnel, lends credibility to the explanation that the cartridge remained in the baggage due to inadvertence. In these circumstances, in the *prima facie* opinion of the Court, it appears that the essential ingredients of conscious possession are not satisfied.

5. This Court in ***Sonam Chaudhary v. The State (Government of NCT of Delhi)***,⁴ ***Mitali Singh v. NCT of Delhi and Anr.***,⁵ as well as ***Rahul Mamgain v. State of NCT of Delhi and Anr.***,⁶ has consistently quashed FIRs in cases where the possession of firearm or ammunition was found to be inadvertent and did not constitute 'conscious possession'.

6. The concept of 'conscious possession' requires not only physical possession of an object but also awareness and intent on the part of the possessor, neither of which are established in the present case. The material on record does not suggest any *mens rea* or culpable intent on the part of the Petitioner, nor does it indicate that the ammunition was carried for any

⁴ 2016 SCC Online Del 47.

⁵ W.P.(Crl.) 2095/2020, decided on 15th December, 2020.



unlawful purpose. The explanation offered by the Petitioner that he did not realize the presence of the ammunition until its discovery is plausible. Further, no firearm was found on him, and there is no claim that he used or intended to use the ammunition in any harmful way. It is, thus, evident that the Petitioner had no knowledge of the presence of the ammunition in his baggage.

7. The Arms Act imposes strict criminal liability, which must be interpreted carefully. The absence of any incriminating circumstances in the present case reinforces the conclusion that the Petitioner does not fall within the mischief sought to be prevented by the statute. Consequently, no offence under Section 25 of the Arms Act is made out against the Petitioner.

8. Furthermore, the Petitioner does not have any prior criminal antecedents, and thus, in the opinion of the Court, the continuation of proceedings in the impugned FIR in such circumstances would serve no legitimate purpose other than subjecting him to undue harassment and prolonged litigation. The Supreme Court has repeatedly opined that criminal proceedings should not be permitted to continue, when they amount to an abuse of the process of law. In the absence of any legal or factual basis to sustain the prosecution, allowing the proceedings to continue would be a miscarriage of justice.

9. While the Court finds no basis to prosecute the Petitioner under the Arms Act, his carelessness has led to the unnecessary involvement of the state machinery, an outcome that could have been avoided with greater vigilance. Given that security agencies are obligated to treat all such incidents with seriousness, irrespective of an individual's intent, the

⁶ Crl. M.C. 3783/2022 decided on 17th August, 2022.



initiation of criminal proceedings was a natural consequence of the Petitioner's lapse. Accordingly, while the Court deems it fit to quash the impugned FIR, it is considered appropriate to impose costs on the Petitioner in the interest of justice.

10. In view of the above, the impugned FIR No. 0566/2025 dated 13th August, 2025, registered under Section 25 of the Arms Act at P.S. IGI Airport, Delhi and all consequential proceedings emanating therefrom are hereby quashed, subject to payment of cost of INR 10,000/- with the Delhi Police Welfare Fund, by the Petitioner.

11. The proof of deposit be placed on record within a period of 15 days from today.

12. With the above directions, the present petition is disposed of, along with pending application.

SANJEEV NARULA, J

SEPTEMBER 3, 2025

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