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

+ **W.P.(CRL) 3023/2024 & CRL.M.A. 29342/2024**

STEPHEN BRIAN BLAIR

.....Petitioner

Through: Mr. Antara Mishra and Mr. Kuldeep
Jauhari, Advocates

versus

STATE GNCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC for State
with Mr. Alok Sharma, Mr. Amit
Sahni and Mr. Vasu Agarwal,
Advocates along with SI Vipin
Kumar, PS: IGI Airport, Delhi

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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10.02.2025

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.589/2024 dated 19.08.2024, registered at Police Station (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 submitted that the Petitioner is a citizen of United States of America (U.S.A) and was travelling from San Francisco, U.S.A to New Delhi, India on 02.08.2024 with a motorcycle tour group including his two sons namely Mr. Cory Blair and Mr. Koa Blair for Leh, Ladakh. Thereafter, on 18.08.2024, when the Petitioner and his sons were scheduled to depart from Delhi for San Francisco, U.S.A via Japan Airlines bearing Flight No.



JL-002 and his baggage was put for screening at the airport, one ammunition i.e. 55mm x 12 mm single bullet was recovered from his son, i.e. Mr. Cory Blair's winter gloves kept in the said baggage. He states that in these facts, the subject FIR No. 589/2024 under Section 25 of the Arms Act was registered at Police Station IGI Airport.

2.1. Learned counsel for the Petitioner states that during interrogation, the Petitioner had stated that he is retired military-personnel (SGM) who served in US Army Special Forces from the year 1987 to 2018 and therefore possesses a valid Permit/License for carrying and using arms.

2.2. She states that presence of the single bullet was not within the knowledge of the Petitioner, therefore, he could not produce the stipulated documents/permit with regard to possession of the said bullet. He states that after the interrogation, Investigating Officer ('I.O') had released the Petitioner without making any arrest.

2.3. She states that the circumstances in which the single bullet was recovered from the possession of the Petitioner has been explained wherein he stated that the single bullet belongs to the weapon/gun which was owned by his son and the said weapon was sold seven (7) years ago, however, the bullet [55mm x 12 mm size] which was undetected due to its small size, was accidentally left behind in one of the winter gloves by his son and inadvertently got carried with the baggage of the Petitioner. Further during their entire trip from U.S.A to Ladakh, since they never got any chance to use the said gloves, therefore, the presence of the said bullet could never come in the knowledge of the Petitioner.

2.4. She states that the Petitioner was not in 'conscious possession' of the single bullet and possession simplicitor is not enough to attract Section



25/30 of the Arms Act. She states that the single bullet was recovered from the check-in-baggage without there being any firearm, therefore, it does not as well ipso facto amounts to commission of any crime.

2.5. She states that there is no evidence or reasonable ground of suspicion to justify the conscious possession of the said bullet. She states that the Petitioner has also fully cooperated with the police. She reiterated that since the Petitioner was not aware of the one single bullet and also was not in conscious possession of the same, hence, seeks quashing of the present FIR in question.

2.6. She states that Petitioner was visiting India for the fourth time and has no prior involvement in any criminal cases as well.

3. On the other hand, Mr. Yasir Rauf Ansari, the learned ASC appearing on behalf of the State fairly submits that since a single bullet which was recovered and the same could not have been used for any threat purpose without firearm, therefore, the relief sought in the present petition can be considered by this Court in accordance with law. He states though the submission of the Petitioner with respect to valid Permit could not be verified by the Respondent as the US Embassy asked the Respondent to verify the same from the concerned department in State of Alaska. He states that no charge-sheet has been filed in this FIR and the matter is pending investigation in the absence of the confirmation from the concerned department of Alaska.

4. This Court has heard the submission of the parties.

5. 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 in view of judgments of the Constitution bench of Supreme Court in **Gunwant Lal vs. The State of Madhya Pradesh**, (1972) 2 SCC 194 and **Sanjay Dutt v. State**, (1994) 5 SCC 410.

6. 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 for US.

7. 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, 1959.

8. 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 including with his own sons who were travelling with him. Therefore, there could not have been any threat to any person at the Airport. In relation to this it would be relevant to state the decision passed by the Coordinate Bench of this Court in **Chang Hong Saik Through SPA Arvinder Singh v. State &Anr.**, (2012) 130 DRJ 504 wherein the Court in similar circumstances was pleased to quash the FIR against the petitioner therein observing in Para 43 which is extracted hereafter:



“43. Single live cartridge cannot be used for any threat purpose without firearms. 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 for either of the purpose mentioned above, then he cannot be held guilty and punished for the charge framed against him.”

(‘Emphasis Supplied’)

9. 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)**, 2017 SCC OnLine Del 7680 and **Narendra Kumar Gupta v. State of NCT of Delhi**, 2021 SCC Online Del. 2335, wherein it has been held that the absence of the fire-arm indicates that the petitioner 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 Courts in such facts.

10. 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 cannot be said to have committed an offence under section 25 of the Arms Act and present FIR deserves to be quashed. Accordingly, FIR No. 589/2024 dated 19.08.2024 registered at P.S.: I.G.I. Airport, is hereby quashed, including all proceedings emanating therefrom.

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

MANMEET PRITAM SINGH ARORA, J
FEBRUARY 10, 2025/ms/mt