



2025:DHC:9738



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

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Reserved on: 28.10.2025**Pronounced on: 07.11.2025**

+ CRL.M.C. 8338/2024

HARMANJEET SINGH

.....Petitioner

Through: Mr. Aamir Chaudhary, Ms.
Sakshi Yadav, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvair Singh Chauhan,
APP with SI Vipin Kumar, PS-
IGI Airport.**CORAM:****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed by petitioner under section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the FIR No. 156/2024 dated 23.02.2024, registered at PS IGI Airport under section 25 of the Arms Act, 1959 and all proceedings emanating therefrom.

Factual Background

2. Briefly stated, the facts as per the allegations in the FIR are that on 22.02.2024, while petitioner who is a citizen of USA, was travelling from Delhi to New York by American Flight No. AA-293,



was found in possession of 9 ammunitions (.32”) in his check-in-baggage during baggage screening at IGI Airport and upon questioning petitioner was not in possession of any valid documents for carriage of the abovementioned ammunitions. Thereafter on complaint of Associate, Dial Security, IGI Airport, Terminal 3, New Delhi, the FIR in the present case was registered.

Submissions of Petitioner

3. The Ld. Counsel for the petitioner submits that petitioner is a US citizen and works in US Army and had come to India to attend the marriage of his cousin at Patiala, Punjab in February, 2024. After attending the marriage the petitioner was scheduled to leave from India on 22.02.2024 along with his family, while his father had a flight for USA after 10 days. His father asked him to carry his extra luggage with him. The father of the petitioner forgot to remove the live cartridges lying in the bag and handed over the bag to the petitioner which were detected at the airport during the security check.

4. The Ld. Counsel submits that the father of the petitioner was having a valid arms license bearing no. **DM/FDK/DUP/SFRD.1015/122** issued by Faridkot District Authority, Punjab which was valid till year 2026 throughout India.

5. Relying upon the judgment of the Coordinate Bench of this court in *Adhiraj Singh Yadav vs. State W.P.(CRL) 754/2020*, learned counsel for the petitioner submits that the petitioner was not in



conscious possession of the ammunitions and had no intention to carry the same and 9 ammunitions were recovered without any firearm, thus the same does not prove that the petitioner had animus possidendi and thus, the offence under Section 25 of the Arms Act, 1959 is not made out when the suspect is not conscious of the possession of live ammunition. Learned counsel for the petitioner thus, prays for the quashing of the FIR.

6. Furthermore, it is contended that the presence of the cartridge in the baggage was purely inadvertent and due to oversight without any malafide intent or knowledge. It has been further submitted that petitioner is a respectable individual and would not knowingly endanger his reputation or career by attempting to carry undeclared ammunition through a high security zone.

Submissions of State

7. Per contra the Ld. APP submits that during investigation the arms license of father of petitioner namely Gurmail Singh Gill has been verified and it was found that he holds a valid arms license issued by Faridkot District Authority, Punjab, having validity till the year 2026 throughout India and had purchased 25 live cartridges from M/s. Vohra Gun House, Arms & Ammunitions Dealers, Shop No. 98, Old Bus Stand, Baba Farid Market, Faridkot, Punjab on 14.10.2015 vide Bill No. 1131 dated 14.10.2015.



Analysis and Conclusion

8. I have heard both parties and have perused the relevant documents on record.

9. As per definition of ammunition under Section 2(b) of the Arms Act and the decision of the Division Bench of this Court in the case of **Sh. Gaganjot Singh vs. State in W.P. (CRL) 1169/2014**, live cartridge is an ammunition.

10. The question that falls for consideration before the Court is as to whether the petitioner was in '*conscious possession*' of the ammunition allegedly recovered from him or not.

11. A perusal of Section 25 of the Arms Act, 1959 shows that the term '*possession*' refers to the possession backed by the requisite mental element, i.e. conscious possession. Therefore, mere custody, without being aware of such possession does not constitute an offence under the Arms Act. In the case of **Sanjay Dutt v. State through CBI Bombay (II), (1994) 5 SCC 402** the Hon'ble Supreme Court has observed as under:-

“20. The meaning of the first ingredient of “possession” of any such arms etc. is not disputed. Even though the word 'possession' is not preceded by any adjective like 'knowingly', yet it is common ground that in the context the word 'possession' must mean possession with the requisite mental element, that is, conscious possession and not mere custody without the awareness of the nature of such possession. There is a mental element in the concept of possession. Accordingly, the ingredient of 'possession' in Section 5 of the TADA Act means conscious possession. This is how the ingredient of possession in similar context of a statutory offence importing



strict liability on account of mere possession of an unauthorized substance has been understood.”

12. The term conscious possession has been elaborately dealt with by the Hon'ble Apex Court in ***Gunwant lal v. State of M.P. : (1972) 2 SCC 194***. The relevant paragraph of the said judgment reads as under:

“5.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 nonetheless 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 some one 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 Jurisprudence 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.”

13. Further, in similar circumstances, the Coordinate Bench of this Court in ***Adhiraj Singh Yadav Vs. State : W.P.(CRL) 754/2020***, held 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].”

14. The status report filed by the police confirms that the father of the petitioner was having a valid arms license and had purchased 25 live cartridges from M/s. Vohra Gun House vide bill no. 1131 dated 14.10.2015. In the circumstances of the case, it seems probable that petitioner might have inadvertently carried the ammunition, since if he were to consciously carry the cartridges, he would have carried the weapon along as well. As per the status report also there is nothing on record to doubt the explanation given on behalf of the petitioner.

15. It is trite law that the power of the High Court under Section 482 Cr.P.C. is required to be exercised in *ex-debito justitiae* to prevent



the abuse of process of the Court but should not be exercised to stifle legitimate prosecution and the High Court cannot assume the role of a Trial Court and embark upon an enquiry so as to the reliability of evidence and sustainability of accusation on a reasonable appreciation of such evidence. However, if on the face of the charge sheet the ingredients of the offences are not disclosed, the High Court would be within its power to quash a frivolous proceedings. [*State of A.P. Vs. Golconda Linga Swamy & Anr. (2004) 6 SCC 522*].

16. In my view, the petitioner has adequately explained the presence of the live cartridges in his baggage.

17. In view of the facts and circumstances of the case, no useful purpose shall be served by continuing with FIR no. 156/2024 under Section 25 of the Arms Act registered at PS IGI Airport as also the consequential proceedings emanating therefrom.

18. Accordingly, the petition is allowed and FIR no. 156/2024 registered at PS IGI Airport under Section 25 of the Arms Act and all proceedings emanating therefrom are quashed.

19. In view of above, the petition along with pending application, if any, stand disposed of.

RAVINDER DUDEJA, J.

NOVEMBER 07, 2025/Sk/lks