



\$~59

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

+ **W.P.(CRL) 3710/2024**

SARTHAK SEHTAL

.....Petitioner

Through: Mr. Pradeep Sharma, Advocate.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Amol Sinha, ASC (Crl.) for the
State with Mr. Kshitiz Garg,
Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

18.09.2025

%

1. Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) / Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner, Sarthak Sehgal, seeking quashing of FIR No. 164/2024 dated 27.02.2024, registered under Section 25 of the Arms Act, 1959 at Police Station I.G.I. Airport.
2. ***The case of the Prosecution*** is that on 27.02.2024, a complaint was received from Mr. Kanhaiya Lal Jat (SI/Executive CISF/IGI Airport) stating that at about 0942 hrs, one passenger, namely Sarthak Sehgal, travelling to Bangkok by flight No. TG-324, Seat No. 40C, Passport No. R2694434, reported at X-BIS No. 05 in International SHA, Terminal 3, IGI Airport,



New Delhi. During screening of his bag, the complainant observed an ammunition-like image on the monitor of the ARTS Machine. Upon physical examination, one live ammunition measuring 25 mm, diameter 0.9 cm, G.F.L. 7.65 mm, was recovered. The passenger failed to provide any explanation or supporting documents regarding the recovered ammunition. Accordingly, FIR No. 164/2024 under Section 25 of the Arms Act was registered at PS IGI Airport on 27.02.2024.

3. On 27.02.2024, a notice under Section 41A Cr.P.C. was issued to the Petitioner, and he was released after interrogation. On 07.09.2024, one Updesh Singh claimed that the recovered ammunition belonged to him. He stated that he works as a security guard in the residential society of the Petitioner and had used the jacket of the Petitioner during his night duties, inadvertently leaving the said cartridge in its pocket. He holds Arms License No. 1883/06, PS Kurra, District Mainpuri, U.P. On 08.09.2024, the Petitioner also informed by email that the recovered cartridge belonged to Mr. Updesh Singh.

4. It is submitted on behalf of the Petitioner that he is a respectable person with no criminal antecedents. He had completed his Master's course in Australia and returned to India on 13.01.2024 to meet his family while on leave from his job. He has been residing at C-781 A, Keshav Puram, Delhi, and shares cordial relations with his security guard, Updesh Singh, who would often borrow his jacket for attending family functions.

5. On 23.02.2024, the watchman borrowed the Petitioner's jacket for a family function and returned it on the morning of 27.02.2024. Since the Petitioner was in a hurry to reach the airport to board his flight to Melbourne via Bangkok, scheduled to depart at 11:10 AM, he packed the said jacket in



his carry-on luggage without checking it. On the same day, he was apprehended at the airport, and the present FIR was registered.

6. When Mr. Updesh Singh came to know of the incident, he approached the Investigating Officer and disclosed that he had been working as a security guard in Keshav Puram Society and is holding a valid arms license, valid throughout India. He further admitted that one cartridge had mistakenly remained in the jacket pocket of the Petitioner, which belonged to him.

7. The present Petition has been filed on the **ground** that the Petitioner has been falsely implicated in the present case, as he had no knowledge of the cartridge in his jacket. He was unaware that his watchman, Updesh Singh, had left a cartridge in the jacket pocket after borrowing it and he could not check the jacket before keeping it in his luggage.

8. It is submitted that the Petitioner was not in conscious possession of the said cartridge, which was left in his jacket by mistake of the watchman, as proved by his statement.

9. The Petitioner is a young man of 26 years of age with clean antecedents and a promising career in Melbourne, Australia. If the present FIR is not quashed, the Petitioner will face unnecessary harassment, and grave injustice would be caused to him.

10. *Accordingly, it is prayed that the present Petition be allowed and FIR No. 164/2024 dated 27.02.2024 be quashed.*

11. ***Status report has been filed on behalf of the Respondent/State,*** detailing the facts leading to the present FIR. Further, it is stated that on 07.09.2024, Updesh Singh claimed the recovered ammunition as his, while confirming that he had borrowed the jacket of the accused, Sarthak Sehgal.



The details of the recovered ammunition were verified with the Arms Dealer in Mainpuri, who confirmed that Mr. Updesh had purchased 10 live cartridges on 16.03.2023. The details of his Arms License have also been verified from the District Magistrate, Mainpuri, U.P., and found valid till 31.12.2026 throughout India. The FSL report has further confirmed that the recovered ammunition falls within the definition of “ammunition” under the Arms Act, 1959.

Submissions heard and record perused.

12. Admittedly, one live ammunition has been recovered from the possession of the Petitioner during his baggage scanning at the Security check and on the physical checking at I.G.I. Airport, New Delhi.

13. As has been held in a catena of judgments, even single ammunition recovered from the possession of a person, amounts to recovery of ammunition. However, the possession has to be *conscious* to impute any culpability. The pre-condition for an offence under the Arms Act, 1959 is the element of intention, consciousness or knowledge with which a person possessed the Firearm, before it can be said to constitute an offence, as held by the Constitution Bench of the Apex Court in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194.

14. In Ritesh Taneja vs. State and Anr., 2022 SCC OnLine Del 971, it has been explained by the Co-ordinate Bench of this Court that conscious possession of any firearm/ammunition entails strict liability on the offender.

15. In Sanjay Dutt vs. State through CBI Bombay, (1994) 5 SCC 410, the Constitution Bench of the Apex Court had reiterated as under: -

“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. (See Warner v. Metropolitan Police Commissioner, (1969) 2 A.C. 256 and Sambasivam v. Public Prosecutor, Federation of Malaya, (1950) AC 458.”*

16. In Gaganjot Singh vs. State, MANU/DE/3227/2014, the Co-ordinate Bench of this Court in similar facts, where a solitary live cartridge was recovered by the police from the Petitioner’s bag which belonged to his uncle about which he expressed his lack of knowledge. It was held that the circumstances did not establish conscious possession. Relying on the decision in Gunwantlal (supra), the FIR was quashed, and the Petitioner was discharged.

17. Similar, observations have made consistently by the co-ordinate Bench of this Court in Narinderjit Kaur Singh vs. State (NCT of Delhi) decided vide W.P.(CRL) 1669/2017 and Nimesh Kumar vs. State of NCT of Delhi, decided vide W.P.(CRL) 3540/2017.

18. The circumstances in which the one cartridge was recovered from the Petitioner have been explained by him, who stated that he was not even aware of the cartridge in the bag, since he had packed it in a hurried manner. Further, he explained that the said cartridge belonged to the security guard



of his society, who had borrowed his jacket for attending a function. The security guard, Updesh Singh, further clarified that he had purchased the ammunition from an authorised dealer and holds a valid licence for it, which is duly verified by the Prosecution.

19. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on his part. It can be inferred that presence of the cartridges was without the knowledge of the Petitioner and he did not have the requisite *mens rea*. It is thus, held that the possession of cartridges was not conscious possession and it belongs to his friend, who has a valid Arms Licence. The circumstances do not disclose the commission of any offence punishable under Section 25 Arms Act, 1959.

20. Accordingly, FIR No. 164/2024 under Section 25 of the Arms Act, 1959 at Police Station I.G.I. Airport and all consequential proceedings emanating therefrom, are quashed.

21. The Petition along with Pending Application (s), if any, is disposed of.

NEENA BANSAL KRISHNA, J

SEPTEMBER 18, 2025/RS