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

+ W.P.(CRL) 3878/2025, CRL.M.A.35047/2025 (stay),
CRL.M.A.35048/2025 (for permission to go abroad)

SH VISHNUPetitioner

Through: Ms. Nisha Gaur, Ms. Annu Poonia,
Mr. Karan Gupta, Advocates.

versus

STATE NCT OF DELHI AND ANRRespondents

Through: Ms. Rupali Bandhopadhyia ASC with
Ms. Amisha Gupta Adv with SI Vipin
Kumar PS IGI Airport.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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26.11.2025

1. Matter is taken up today as 25.11.2025 was declared holiday on account of 350th Anniversary of 'Guru Teg Bahadur's Martyrdom Day'.
2. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "C.r.P.C."*) has been filed on behalf of the Petitioner seeking quashing of the FIR No. 701/2025 registered under Section 25 of the Arms Act, 1959 (*hereinafter referred to the "Act, 1959"*) Police Station IGI Airport, Delhi and its consequential proceedings.
3. The petitioner is a qualified Indian citizen and he is working with Brewocrat Brewery Skybar & Kitchen, Gurgaon at the post of Account Manager. The Petitioner is a permanent resident of Delhi and is a sole bread



earner for his family consisting of himself, his wife, children and parents. The brother of the applicant and his wife are also dependent upon the Petitioner.

4. On 12.10.2025, at about 05:26 Hrs, the Petitioner was travelling from New Delhi to Sharjah by Flight No. IX-135, Seat No. 18A with departure time being 08:25 Hrs. During the scanning of the baggage at XBIS machine no. 10 in International SHA, T-3 of IGI Airport, 01 live cartridge was recovered from the Petitioner's bag.

5. Pursuant thereto, this, the present FIR No. 701/2025 dated 12.10.2025 under Section 25 of the Arms Act, 1959 at P.S. IGI Airport, Delhi was registered as he had no valid document in support of the said recovered cartridge at that time.

6. The Petitioner submits that his cousin had given his small bag for carrying the Passport, Visa, Travelling documents, mobile and charger in which, he placed his belongings. Owing to the urgency of travel, the Petitioner failed to notice that 01 live cartridge was lying inside the said bag. Upon screening at the IGI Airport, the cartridge were detected, to the utter surprise of the Petitioner, who asserts that he had no knowledge whatsoever regarding the presence of the said ammunition in his baggage.

7. It is stated that the Petitioner's cousin, Sh. Ghanshyam, holds a valid Arms License bearing SI. No. of License 949/V/R issued on 15.05.2010 issued by the State of Haryana. The presence of the cartridge in the baggage was purely inadvertent, as the Petitioner could not thoroughly check the bag due to the haste of travel.

8. The Petitioner has been facing unnecessary problems due to pendency of the FIR and has sought quashing of the said FIR no. 701/2025 on the



ground that there was no *mens rea* on his part to commit any offence as alleged. The Petitioner did not attempt to conceal the live cartridge and had voluntarily handed over his baggage for X-ray screening, where such items are easily detectable. It is thus, evident from the record that the presence of the live cartridge was without the Petitioner's knowledge, and he lacked the requisite intent to commit the alleged offence.

9. It is stated that there is no Status Report as well and no Charge Sheet filed in this case.

Submissions Heard and Record Perused.

10. The pre-condition for an offence under Section 25(1)(a) of the Arms Act, 1959 is the element of intention 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.

11. 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.”

12. In Gaganjot Singh v. 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.

13. Similar observations have been 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.

14. The circumstances in which the live cartridge was recovered from his possession of the Petitioner, has been duly explained by the Petitioner who has stated that he was not even aware of the cartridges in his baggage. It is explained that the bag belonged to his cousin who holds a valid Arms License bearing SI. No. of License 949/V/R issued on 15.05.2010 issued by the State of Haryana. The possession was unconscious. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on his part.

15. In the light of the aforesaid judgments, the recovery of live cartridge from the bag of the Petitioner about which he was not even aware, does not disclose commission of any offence punishable under Section 25 of the Arms Act, 1959.

16. Accordingly, FIR bearing No. 762/2023 registered at Police Station



IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating there from are quashed.

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

NEENA BANSAL KRISHNA, J

NOVEMBER 26, 2025/RS