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

+ **W.P.(CRL) 961/2026**

BHAGWANT SINGH

.....Petitioner

Through: Mr. Kunal Sharma, Ms. Mehaq Rao,
Mr. Himanshu Sharma and Mr.
Himanshu Maru, Advocates
alongwith petitioner in person

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Rahul Tyagi, ASC for the State
with Mr. Sangeet Sibou, Mr. Aniket
Kumar Singh, Mr. Priyansh Raj Singh
Senger, Advocates and SI Sachin
Dabas, P.S. IGI Airport, Delhi

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

06.05.2026

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1. By way of the present petition, the petitioner is seeking quashing of the FIR bearing no. 149/2020, registered at Police Station IGI Airport, Delhi, for the commission of offence punishable under Section 25 of Arms Act, 1959 and all other proceedings emanating out of the said FIR.
2. The brief facts, as per the prosecution are that the petitioner, Bhagwant Singh, is a resident of the United States and holder of a valid Indian arms license issued by the District Magistrate, Tarn Taran, Punjab, for a .32 bore pistol (valid from 25.12.2018 to 25.12.2022). It is stated that the petitioner had arrived in India on 11.03.2020 and remained stranded due



to the COVID-19 lockdown. On 29.06.2020, while the petitioner was transiting through Indira Gandhi International Airport, New Delhi, to board a scheduled Air India flight to Washington, a single live 7.65 mm cartridge was detected in his hand baggage during pre-embarkation security screening. Upon inquiry, the Petitioner immediately disclosed that he was a licensed arm holder and stated that the cartridge belonged to his licensed weapon and had inadvertently remained in his baggage possibly having been placed there by his minor daughter.

3. Pursuant to this, the present FIR was registered and subsequently chargesheet was filed on 29.11.2023.

4. Feeling aggrieved by the aforesaid FIR, the petitioner has preferred the present petition for quashing of the present FIR.

5. The learned counsel for the petitioner argues that petitioner had no knowledge regarding the presence of the aforesaid live cartridge in his hand baggage and he was only informed by the security officials of the IGI Airport about the same. It is further submitted that petitioner had no intention to carry live cartridge live cartridge and that the recovered live cartridge, in absence of any accompanying firearm, could not have been used for any unlawful purpose. It is further argued that, in absence of conscious possession, the essential ingredients constituting an offence under Section 25 of Arms Act is not made out. It is also submitted that the daughter of the petitioner who is three years old, often used to play with the cartridges kept in a drawer at his residence in Punjab, and she might have mistakenly placed one cartridge in his wallet.

6. The learned Standing Counsel appearing for the State has opposed the present petition. It is submitted that the recovered ammunition was sent to



FSL, for expert opinion and the report received from the FSL has been annexed. However, he fairly submits that a copy of the valid arms license of the petitioner Mr. Bhagwant Singh also stands verified.

7. This Court has **heard** arguments addressed on behalf of the petitioner as well as State, and has perused the material available on record.

8. The Constitutional Bench of the Hon'ble Supreme Court in the case of ***Gunwantlal v. The State of Madhya Pradesh: (1972) 2 SCC 194*** has explained the meaning of possession in the context of Section 25 of the Arms Act, 1959 and held as under:-

"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 none-the-less 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 someone 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 (sic) 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."

9. The above proposition of law was reiterated by the Hon'ble Supreme Court in ***Sanjay Dutt v. State Through CBI Bombay: (II) Crimes 1994 (3) 344 (SC)*** and held 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 unauthorised substance has been understood."

10. At the outset, this Court notes that the recovery affected from the petitioner pertains to a single live cartridge of 7.65 mm bore, and no firearm was recovered from his possession at the airport. It is also not disputed that the petitioner is the holder of valid arms licence issued by the competent authority in Punjab in respect of a 0.32 mm bore pistol, and the licence stands duly verified by the State.

11. Further, in the present case, there is nothing on record which suggests that petitioner was in conscious possession of the live cartridge. Mere recovery of cartridge itself is not sufficient to prove the offence under Section 25 of Arms Act in absence of requisite *mens era*. It is apparent from



record that the petitioner was unaware of the fact that the cartridge was kept in his bag. It is also a matter of record that no weapon was recovered from the petitioner to connect him with the intention to use the recovered cartridge for committing any offence.

12. In view of the above discussion, this Court is of the opinion that no offence is made out against the petitioner under Section 25 of the Arms Act. This Court is further of the view that allowing continuation of criminal proceedings against the petitioner will be an abuse of process of law. The writ petition is, therefore, allowed and the FIR bearing no. 149/2020, registered at Police Station IGI Airport, Delhi, for the commission of offence punishable under Section 25 of the Arms Act, 1959 and all consequential proceedings emanating therefrom are hereby quashed, subject to the petitioner depositing a sum of Rs. 25,000/- with the Civil and Sessions Courts Stenographers' Association, Delhi within a period of two weeks from date and filing the compliance report of the same with the Registry of this Court.

13. Accordingly, the present petition is disposed of.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

MAY 06, 2026/ns/RB