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

+ CRL.M.C. 1938/2024

MS SIMRAN

.....Petitioner

Through: Mr. S. N. Khan and Mr. Salman Khan, Advocates alongwith petitioner in person (through VC)

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Naresh Kumar Chahar, APP for the State with Inspector Rajpal, P.S. Rithala Metro

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

23.02.2026

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1. By way of the present petition, the petitioner seeks quashing of the FIR bearing no. 02/2018, registered at Police Station Rithala Metro, Delhi, for offence punishable under Section 25/54/59 of the Arms Act, 1959 and all consequential proceedings emanating therefrom.

2. The brief facts, as per the prosecution case are, that on 04.05.2018, during screening through the inline X-BIS machine at Kohat Enclave Metro Station, the check-in bag of the petitioner was scanned and two live cartridges were detected therein. Upon inquiry by the CISF officials, the petitioner failed to produce any valid licence or authorization for carrying the said ammunition. It is further submitted that Contable Satish Singh, CISF had handed over a written complaint along with two live 8 mm cartridges and the petitioner to the local police. The cartridges were placed



on white paper, their sketch was prepared, and measurements were taken, revealing the length as 7.5 cm and width as 1.4 cm, with “KF” engraved on the base. Thereafter, the recovered cartridges were sealed in a white cloth parcel (pulanda) with the seal of “L.L.”, and the FSL form was duly filled. The sealed pulanda was taken into police possession, in accordance with law. On the basis of the above facts, the present FIR bearing no. 02/2018 was registered at Police Station Rithala Metro Station for commission of offence punishable under Section 25/54/59 of Arms Act.

3. Aggrieved by the aforesaid FIR, the petitioner has preferred the present petition for quashing of the present FIR.

4. While praying for quashing of FIR and the criminal proceedings emanating there from, the learned counsel for the petitioner argues that petitioner had no knowledge regarding the presence of the aforesaid ammunitions/cartridges in her bag and she was only informed by the security officials of the concerned Metro Station about the same. It is further submitted that petitioner had no intention to carry live ammunitions/cartridges and the recovered live cartridge cannot be used for any threat purpose without a fire arm and it does not attract any offence in the absence of any knowledge of conscious possession. It is contended that in the year 2018, the petitioner was a student and was pursuing two year Diploma course in Special Education from Ashtavakra Institute of Rehabilitation Science and Research, Pitampura, Delhi and she used to attend class daily by travelling through Delhi Metro from Welcome Station to Kohat Enclave Metro Station. It is stated that on the day of incident, the petitioner had left her bag in the college library and canteen while going to the washroom, and these cartridges had been put inside her bag by someone.



5. The learned APP 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 with the Status Report, which has been handed over to this Court.
6. This Court has heard arguments addressed on behalf of the petitioner as well as State, and has perused the material available on record.
7. 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."

8. 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."

9. In ***Chan hong Saik Thr. Spa: Arvinder v. State & Anr.: 2012 SCC OnLine Del 3320***, following observations were made by a Coordinate bench of this Court:

"38. In the present case, single live cartridge which is found without any fire arm and specially at the stage when he was to leave this country to his native country.

39. The case of the prosecution is not that he extended any threat to any of the authority or the fire arms or ammunition was found with any of this group persons including his own son who was travelling with him.

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

45. Though, the petitioner has not admitted recovery of the cartridge and claimed trial, however, even if it is admitted, in my considered view, he cannot be punished for the charge framed against him because



a single cartridge without fire arm is a minor ammunition which is protected under clause (d) of section 45 of the Arms Act..."

10. In the present case, there is nothing on record to suggest that petitioner was in conscious possession of the two live cartridges and she was aware of the said fact. Mere recovery of cartridge itself is not sufficient to prove the offence in the absence of any intention. It is apparent from the record that the petitioner was unaware of the fact that the two cartridges were kept in her bag. It is also a matter of record that no weapon was recovered from the petitioner to connect her with the intention to use the recovered cartridge for committing any offence.

11. In view of the above discussion, this Court is of the opinion that no offence is made out against the petitioner for alleged under 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. 02/2018, registered at Police Station Rithala Metro, Delhi, for offences punishable under Sections 25/54/59 of the Arms Act, 1959 and all consequential proceedings emanating therefrom are hereby quashed.

12. Accordingly, the present petition is disposed of.

13. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

FEBRUARY 23, 2026/ns/TD