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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 18th May, 2026**

+ W.P.(CRL) 1226/2026 & CRL.M.A. 11785/2026

HARJEET SINGH KATARIA

.....Petitioner

Through: Mr. Pardeep K Bajaj, Advocate
(through V.C.)

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) for the State with SI Sunita.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The present petition seeks quashing of FIR No.94/2024 dated 31.01.2024, registered at P.S.IGI Airport for commission of offence under Section 25 of Arms Act, 1959, along with all consequential proceedings emanating therefrom.
2. Briefly stated, the case of prosecution is that on 31.01.2024, the petitioner, who intended to travel from Delhi to Auckland (New Zealand) via Singapore, checked his baggage and when the image of his bag appeared on *inline baggage screening monitor*, the bag was suspected containing *undeclared ammunition*.
3. The suspicion resulted in physical search and during such search of his bag, one live cartridge (with "32 KFS & WI" engraved on the base) was recovered and it was in the abovesaid backdrop of the facts that a case under Section 25 of Arms Act, 1959 was registered against the accused.
4. Petitioner seeks quashing of the abovesaid FIR, primarily, for the following reasons:-



a) *The act of carrying the cartridge was not deliberate but occurred due to an oversight. The petitioner was not in conscious possession of the live cartridge and was completely unaware of the presence of the ammunition in his luggage. The cartridge related to a firearm registered in the name of his brother and when applicant left home with said bag, he failed to note said cartridge.*

b) *As per section 45(D) of Arms Act, the recovery is to be taken as minor ammunition, which is protected from prosecution.*

c) *When the petitioner was taken into preventive custody and investigation was carried out, after the prosecution reached its satisfaction vis-à-vis the facts that no objectionable/suspicious material was found in petitioner's conscious possession, No Objection Certificate(NOC)/clean chit was given to him by the prosecution on the same day i.e. 31.01.2024, and he was, subsequently, released from preventive custody.*

5. Learned Addl. P.P. for the State admits that, as per the investigation conducted so far, it has come to fore that the Arm License No. DM/FZR/ARM/MAKH/0719/45 valid upto 31/07/2027 is registered in the name of Pritpal Singh, who is the real brother of the petitioner. The licensee was authorized to purchase 25 cartridges in a year. According to learned Addl. P.P. for the State, the cartridge in question seems to meant for the abovesaid firearm. He, on instructions from the Investigating Officer, who is present in Court, submits charge-sheet has already been filed and the next date of hearing before the Learned Trial court is 02.09.2026, *albeit*, cognizance is yet to be taken.

6. According to learned counsel for the petitioner, the petitioner had no knowledge, conscious or otherwise, about the presence of such cartridge in his baggage and it was never a deliberate act. He states that it was rather an act



of oversight or negligence. It is, therefore, prayed that since the petitioner was not having conscious possession of the live cartridge and was, totally, unaware about the presence of the same in his luggage, the FIR needs to be quashed. Reliance in this regard is placed on *Charenjit Singh Bakshi vs. State of NCT of Delhi*:2026 SCC OnLine Del 310, *Ritesh v. State NCT of Delhi* 2025, *Rasleen Kaur @ Rasleen Gulati v. The State (Govt. of NCT of Delhi)*, 2020 SCC OnLine Del 187; *Karamjit Singh v. State (NCT of Delhi)*, (2022) SCC OnLine Del 800; *Satpal Deshwal v. State (NCT Of Delhi)* 2025.

7. Reference be also made to order dated 14.01.2026 passed by Coordinate Bench of this Court in *Seema v. The State NCT of Delhi & Anr* (W.P.(Crl) 85/2026) where in the concerned accused was found in possession of two live cartridges and the FIR was quashed. The relevant observations made in the abovesaid order are as under:-

“6. 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 IGI Airport 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 also submitted that the petitioner’s husband had borrowed a bag from a family friend, who is a valid arms license holder, due to the petitioner’s own luggage being overweight, and the cartridges were inadvertently left in the bag by the licensee, who had admitted to the same in his statement given to the I.O. and has also given his affidavit to the said effect, which is annexed with the present petition.

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9. 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."

10. 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."

11. 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, since the said bag did not belong to her, but was of the family friend. 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.

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."

8. Reference is also made to order dated 17.08.2023 passed by another Coordinate Bench in *Mohd. Nazim vs. State*: CRL M.C. 2697/2021 where it is observed as under:-

"4. Relying upon the judgements of the Coordinate Benches of this Court in Namanpreet S. Dhillon vs. State 2022 SCC OnLine Del 2255, Koteshwari Organti vs. State of NCT of Delhi and Rahul Mamgain vs. State of NCT of Delhi 2022 SCC OnLine Del 4917 , learned counsel for the petitioner submits that the petitioner was not in conscious possession of the cartridge and had no intention to carry the same and that only a solitary cartridge was found in his possession without any firearm which does not prove that the petitioner had animus possidendi. Learned counsel for the petitioner thus prays that the present FIR be quashed.

5. The Status Report has been filed stating therein that the Arms License of Mohhammad Nazim was verified and it was found that the weapon type is Revolver, .32 Bore, Weapon number FG-39550, issued in Uttar Pradesh and valid until 19.05.2026.

6. I have heard the learned counsel for the petitioner and the learned APP for the State and have perused the relevant documents on record.



7. It has been held in a plethora of judgments including in *Gunwant Lal vs. The State of Madhya Pradesh* (1972) 2 SCC 194 and *Sanjay Dutt vs. State through CBI Bombay (II) Crimes* 1994 (3) 344 (SC), that “conscious possession” is the most significant ingredient for prosecution under the Arms Act, 1959. The possession herein is not mere custody of the arms but such possession supported by mens rea or intention.

8. Further, a Co-ordinate Bench of this Court in *Chan Hong Saik Thr. Spa: Arvinder Singh vs. State* 2012 SCC OnLine Del 3320 has held that when only a single cartridge or bullet is found in the possession of the offender, without any other suspicious circumstances, such possession shall not be enough to prosecute the offender, as a solitary cartridge is a minor ammunition, which is protected under clause (d) of Section 45 of the Arms Act, 1959.

9. In the present matter, only a single live cartridge was recovered from the petitioner, and the record reveals that the petitioner was not conscious of such possession and it was inadvertently that the cartridge remained in hid bag while travelling. In view of the factual matrix involved, this court is of the view that it is fit case to quash the FIR as the petitioner had no intention of carrying the said ammunition.

10. Accordingly, the petition is allowed and FIR NO. 70/2016 dated 19.02.2016 registered at PS. IGI Airport under Sections 25/54/59 of the Arms Act, 1959 and all proceedings emanating therefrom are quashed.”

9. The broad factual aspects, as already noted above, are not disputed and, quite evidently, mere recovery of a cartridge, by itself, would not be sufficient to prove the offence, when element of *mens- rea* is also, conspicuously, absent.

10. Therefore, exercising inherent powers vested in this Court under Section 528 of the BNSS, it is deemed appropriate to quash the instant FIR.

11. Consequently, to secure ends of justice, FIR No.94/2024 dated 31.01.2024, registered at P.S. IGI Airport for commission of offence under Section 25 of Arms Act, 1959 with all consequential proceedings emanating therefrom, are hereby, quashed subject to petitioner depositing cost of Rs. 20,000/- in *Delhi High Court Legal Services Committee (DHCLSC)* within



four weeks within two weeks from today.

12. The petition, along with the pending application, stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 18, 2026/st/sk