



2026:DHC:8088



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010569002025
+ **W.P.(CRL) 2526/2025**

Date of decision: **17.09.2026****IN THE MATTER OF:-**

KEDAR DEVIDAS HIRAMANPetitioner

Through: Mr. Rahul Mohod, Advocate.

versus

THE STATE OF N.C.T. OF DELHI AND ANRRespondents

Through: Ms. Rupali Bandhopadhyaya, ASC for
State with SI Ashok Kumar, PS IGI
Airport.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV****J U D G E M E N T****PURUSHAINDR KUMAR KAURAV, J. (ORAL)**

1. The instant petition is for the following reliefs:-

“(a) Quash FIR No. 0504 dated 13.07.2025 registered at Police Station, Indira Gandhi Airport {IGI Airport}, u/s 25 of Arms Act, 1949 and all other proceedings emanating therefrom;

(b) Pass such other or further order(s) as may be deemed just and proper in the interest of justice.”

2. Learned counsel for the petitioner submits that the petitioner is serving as a Sepoy in the Indian Army and, at the relevant time, was posted with the Counter Insurgency Force at Jammu. It is submitted that, while



proceeding on sanctioned leave, one empty INSAS magazine and five live cartridges, stated to be remnants of his official duty, inadvertently remained in his baggage. Upon noticing the same at the IGI Airport, the petitioner, being in a state of panic and also concerned about the hospitalization of his wife, placed the said articles in a dustbin inside the airport premises. Learned counsel further submits that the petitioner had no criminal intent or conscious possession of the ammunition and that, upon being contacted by the investigating agency, he immediately returned to Delhi, joined the investigation and fully cooperated with the authorities.

3. The learned ASC for the State submits that, although the petitioner is a Sepoy in the Indian Army, he was not authorised to carry one INSAS magazine and five live cartridges at the IGI Airport. It is submitted that, upon noticing the same, the petitioner attempted to discard the magazine and ammunition in a dustbin, which act stands verified from the CCTV footage, pursuant whereunto the present FIR came to be registered. Thereafter, after service of notice the petitioner joined the investigation.

4. I have heard the learned counsel on behalf of the parties, and perused the record.

5. The facts of the case would indicate that the petitioner was posted as a “Sepoy” (i.e. Sipahi/soldier) in the Indian Army at the time of the incident. He was deployed in ASC Company in Unit 5089 in Sikkim and, during the course of his official duties, was carrying 1 INSAS magazine and 5 live cartridges. While travelling from Jammu to Delhi and thereafter to the IGI Airport, the said magazine and live cartridges inadvertently remained in his bag. Upon noticing the same at the airport, the petitioner, in a state of panic, put the magazine and live cartridges in a dustbin. The said magazine and



live cartridges were thereafter recovered from the dustbin.

6. It is a settled principle of jurisprudence that every *bonafide* oversight or inadvertent mistake cannot be elevated to the status of a crime. Where an act is done inadvertently, unconsciously, or under a genuine mistake of fact, the essential element of criminal intent is missing. In statutory offenses requiring possession, an unintended, oversight-led carrying of an article without mental awareness cannot attract criminal prosecution or penal liability.

7. At this stage, it would also be apposite to refer to the decision of the Constitution Bench of the Supreme Court in ***Gunwantlal v. State of Madhya Pradesh***,¹ wherein it was held that possession for the purposes of the Arms Act must necessarily contain an element of consciousness or knowledge. The Supreme Court in ***Sanjay Dutt v. State through CBI, Bombay (II)***,² reiterated that possession must be accompanied by the requisite mental element and that mere custody without awareness of the nature of such possession would not constitute conscious possession. The said principle has been consistently applied by this Court in cases concerning recovery of live ammunition at airports. In ***Adhiraj Singh Yadav v. State***,³ this Court held that an offence under Section 25 of the Arms Act, 1959 would not be made out where the person concerned was not conscious of being in possession of live ammunition.

8. The Coordinate Benches of this Court in ***Golap Saikia v. State (NCT of Delhi)***⁴ and ***Narendra Kumar Gupta v. State of NCT of Delhi***⁵, in similar

¹ (1972) 2 SCC 194

² (1994) 5 SCC 410

³ W.P.(CRL.) 754/2020, decided on 31.12.2020

⁴ 2017 SCC OnLine Del 7680



circumstances, where a live cartridge was detected in the baggage of the petitioner at IGI Airport, observed that where the possession of the ammunition is unconscious, an offence under Section 25 of the Arms Act, 1959 would not be made out. The FIR registered under Section 25 of the Arms Act, 1959 was accordingly quashed

9. Considering that the petitioner was serving as a Sepoy in the Indian Army and was legally entitled to carry the magazine and live cartridges in the course of his official duties, coupled with the fact that the same had inadvertently remained in his bag and were thereafter discarded by him upon noticing the same at the airport, the explanation furnished by the petitioner appears to be satisfactory. It is also noted that the petitioner has no past criminal antecedents.

10. In view of the aforesaid, the FIR No. 0504 dated 13.07.2025 registered at Police Station, Indira Gandhi Airport (IGI Airport) for the offence under Section 25 of Arms Act, 1949 and all other proceedings emanating therefrom against the petitioner are quashed.

11. The petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 17, 2026
Nc/SA