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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 23.04.2025

+ W.P.(CRL) 1166/2025

JATINDER SINGH

.....Petitioner

Through: Sh. Devinder Singh, Advocate

versus

STATE NCT OF DELHI AND ANRRespondents

Through: Ms. Rupali Bandhopadhy,
ASC with Mr. Abhijeet Kumar,
Advocate
SI Rajesh, PS IGI Airport

CORAM:-

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT (ORAL)

RAVINDER DUDEJA, J.

1. The present Writ Petition has been filed under article 226 of the Constitution of India along with section 528 of the BNSS2023, seeking quashing of the FIR no. 110/2025 registered at PS IGI Airport New Delhi under section 25 of the Arms Act, 1959 and proceeding emanating therefrom.

2. Briefly stated, the facts as per the FIR are that on 03.02.2025, during baggage screening at IGI Airport Terminal-3, five undeclared live cartridges were detected in the check-in baggage of the Petitioner bound for Hong Kong by flight CX-698. Upon physical inspection in the presence of airline security staff, it was found that the cartridges,



each measuring 3.2 cm in length and 1 cm in diameter with markings "328," "W.L.," and "K.F.," were seized, and a sketch memo was prepared. The ammunition was sealed and handed over to the police, and a complaint was lodged by Ms. Jyoti Gupta of DIAL Security. Based on the investigation and absence of proper documents, an FIR under Section 25 of the Arms Act was registered against the petitioner, and further inquiry was initiated by SI Rajesh Kumar.

3. Learned counsel for the petitioner submits that the petitioner had neither knowledge nor conscious possession of the five undeclared ammunitions found in his baggage, and therefore, no offence under Section 25 of the Arms Act, 1959 is made out. Reliance has been placed on the judgments of the Hon'ble Supreme Court in *Gunwant lal v. State of Madhya Pradesh*, AIR 1972 SC 1756 and *Sanjay Dutt v. State through CBI, Bombay*, (1994) 5 SCC 410, wherein it was held that mere possession without conscious awareness does not constitute an offence under the Arms Act.

4. Furthermore it is contended that the presence of the cartridges in the baggage was purely inadvertent and due to an oversight, without any *mala fide* intent or awareness. It has been further submitted that the petitioner is a respectable individual in society and would not knowingly endanger his reputation or career by attempting to carry undeclared ammunition through a high-security zone.

5. *Per contra*, learned APP submits that during the course of investigation, the arms license held by the petitioner was sent for



verification to the issuing authority, i.e., the District Magistrate, Karnal, Haryana, vide Letter No. 991/SO/ADDL.CP(DA-III)/IGI Airport, New Delhi dated 18.02.2025. A verification report dated 28.02.2025 was received on 06.03.2025, confirming that an arms license stands issued in the name of the Petitioner, and remains valid up to 02.01.2026. The license endorsed one 12 Bore DBBL Gun and one .32 Bore Revolver, along with permission to carry up to 25 cartridges.

6. Furthermore it has been submitted that the validity of the said arms license is restricted to the State of Haryana and does not extend beyond its territorial jurisdiction.

7. Heard learned counsel for the parties and perused the record.

8. It is an admitted fact that no weapon was recovered from the petitioner by the Airport Security Staff and only five live cartridges were recovered from the check-in baggage of the petitioner. In the case of *Sanjay Dutt v. State through CBI Bombay (II)*, (1994) 5 SCC 402 the Hon'ble Supreme Court has observed 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 unauthorized substance has been understood.”



9. As per the definition of ammunition under Section 2(b) of the Arms Act and the decision of the Division Bench of this Court in the case of Shri Gaganjot Singh Vs. State in W.P.(Crl.) 1169/2014, live cartridge is an ammunition.

10. It is trite law that the power of the High Court under Section 482 Cr.P.C. is required to be exercised *ex debito justitiae* to prevent abuse of process of the Court but should not be exercised to stifle legitimate prosecution and the High Court cannot assume the role of a Trial Court and embark upon an enquiry as to the reliability of evidence and sustainability of accusation on a reasonable appreciation of such evidence. However, if on the face of the charge-sheet the ingredients of the offences are not disclosed, the High Court would be within its power to quash a frivolous proceedings. [See State of A.P. Vs. Golconda Linga Swamy & Anr. (2004) 6 SCC 522].

11. In *Adhiraj Singh Yadav v. State* W.P.(CRL.) 754/2020, vide order dated 31.12.2020, a coordinate bench of this Court quashed an FIR registered in similar circumstances. It was held as under:

"12. In view of the above, it is well settled that an offence under Section 25 of the Arms Act would not be made out in cases where the suspect was not conscious that he was in possession of live ammunition.

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14. This Court has in several cases held that unconscious possession would not attract the rigours of the said Act. [See: Surender Kumar @ Surender Kumar Singh v. The State (GNCT of Delhi) &Anr.: W.P. (Crl) 2143/2019 decided on 27.09.2019; Aruna Chaudhary v. State &Ors.: W.P. (Crl.) 1975/2019 decided on 25.09.2019 and Paramdeep



Singh Sran v. The State (NCT of Delhi) W.P.: (Crl) 152/2019 decided on 29.08.2019)]."

12. In ***Gunwant Lal*** (supra), the Supreme Court held as under,

"5.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 nonetheless 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 Jurisprudence 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. In any disputed question of possession, specific facts admitted or proved will alone establish the existence of the de facto relation of



control or the dominion of the person over it necessary to determine whether that person was or was not in possession of the thing in question.”

13. The petitioner as aforesaid, is holder of an authorized arm license. In the circumstances of the case, it seems probable that petitioner may have inadvertently carried the ammunition, since if it were to consciously carry the cartridges, he would have carried the weapon along as well. As per the status report also nothing has come on record to doubt the explanation given on behalf of the petitioner. In my view, the petitioner has adequately explained the presence of the live cartridges in his bag

14. In view of the facts and circumstances of the case, no useful purpose will be served by continuing with FIR No. 110/2025 under Section 25 of the Arms Act registered at P.S. IGI Airport and all other consequential proceedings emanating therefrom.

15. FIR No. 110/2025 under Section 25 of the Arms Act registered at P.S IGI Airport and all other consequential proceedings emanating therefrom is hereby quashed.

16. The petition is allowed and disposed of accordingly.

17. Pending applications, if any, also stand disposed of.

RAVINDER DUDEJA, J

APRIL 23, 2025/NA