



2025:DHC:6790



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

% ***Date of decision: 11th August 2025***

+ **CRL.M.C. 5454/2025, CRL.M.A. 23405/2025, 23406/2025**

HARJEET SINGH TALWAR

S/o Late Sh. Prabhjot Singh

R/o D-10002, Marathon Cosmos

LBS Marg, Mulund West

Mumbai , Maharashtra-400080

.....Petitioner

Through: Mr. Umesh Sharma, Mr. M. K. Gaur,
Mr. Peeyush Kaushik, Mr. Sumit
Chaudhary, Mr. Siddharth Kaushik
and Ms. Priyanka Kaushik,
Advocates.

Versus

STATE NCT OF DELHI

Through SHO

PS IGI Airport

.....Respondent

Through: Mr. Utkarsh, APP with SI Vipin,
PS: IGI Airport.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed for quashing of FIR No. 54/2022 registered under Section 25 Arms Act, 1959 registered at Police Station I.G.I. Airport.



2. **Briefly stated**, on 09.02.2022, the Petitioner/Harjeet Singh Talwar was travelling from New Delhi to Mumbai and upon screening of the Petitioner's baggage, three undeclared ammunition were recovered.
3. A Complaint was made and the recovered cartridges were seized by the Police. Subsequently, FIR No. 54/2022 was registered under Section 25 of the Arms Act, 1959.
4. It is submitted that the Petitioner is a resident of Mumbai and his father, Late Brigadier PS Talwar retired from the services and lived in House No. 5/20, Punjabi Bagh Extension, New Delhi. He had participated in the Indo-Pak War, 1971 at Bangladesh border as a serving officer of Indian Army and retired in 1983.
5. It is submitted that the Petitioner's father collected ammunitions and kept as memoirs of his participating in the Indo-Pak war and the same were lying in his personal belongings. The Petitioner had no knowledge of these live cartridges, which were kept at his house in Punjabi Bagh.
6. The Petitioner had earlier moved to Mumbai and had established his business in Mumbai. He is now a permanent resident of Mumbai. When his father had fallen ill, he was taken to Mumbai and ultimately died in Mumbai on 14.10.2020 at the age of 91 years. However, the house owned by him at Punjabi Bagh in Delhi remained unused and locked. The Petitioner visited the Punjabi Bagh house in 2022, when he rented it out.
7. While returning to Mumbai, he carried the packet containing the I-Card, Service Book, CSD Card of his late father but was not aware about the live cartridges kept in the said packet along with the medals. He was under the impression that the said are some mementos/medals belonging to his



father hence, the Petitioner retained the same in the said packet while going back from Delhi to Mumbai.

8. The Petitioner was unaware of the live cartridges in the bag which he supposed to be in the possession of his late father who was a decorated military officer and kept all the belongings of his late father in the brief case while moving to Mumbai.

9. Furthermore, the Petitioner had no intention of using them in any manner.

10. The quashing of the FIR is sought on the ground that the case of the Petitioner falls under the categories of cases as determined by State of Haryana & Ors. vs. Bhajan Lal & Ors., 1990 SCR Supl. (3) 259. The FIR is manifestly perverse and misuse of the process of criminal law.

11. Further, that the alleged ammunition was never under the control of the Petitioner, hence carrying the same does not amount to any offense as being alleged.

12. *Thus, it is submitted that the present Petition be allowed.*

13. **Submissions heard and record perused.**

14. Admittedly, three live ammunitions have been recovered from the possession of the Petitioner during his baggage scanning at the Security check and on the physical checking at I.G.I. Airport, New Delhi.

15. As has been held in a catena of judgments, even single ammunition recovered from the possession of a person, amounts to recovery of ammunition. However, the possession has to be conscious to impute any culpability. The pre-condition for an offence under the Arms Act, 1959 is the *element of intention, consciousness or knowledge* with which a person possessed the Firearm before it can be said to constitute an offence, as held



by the Constitution Bench of the Apex Court in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194.

16. In Ritesh Taneja vs. State and Anr., 2022 SCC OnLine Del 971, it has been explained by the Co-ordinate Bench of this Court that conscious possession of any firearm/ammunition entails strict liability on the offender.

17. In Sanjay Dutt vs. State through CBI Bombay, (1994) 5 SCC 410, the Constitution Bench of the Apex Court had reiterated as under: -

*“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. (See Warner v. Metropolitan Police Commissioner, (1969) 2 A.C. 256 and Sambasivam v. Public Prosecutor, Federation of Malaya, (1950) AC 458.”*

18. In Gaganjot Singh vs. State, MANU/DE/3227/2014, the co-ordinate Bench of this Court in similar facts, where a solitary live cartridge was recovered by the police from the Petitioner’s bag which belonged to his uncle about which he expressed his lack of knowledge. It was held that the circumstances did not establish conscious possession. Relying on the decision in Gunwantlal (supra), the FIR was quashed, and the Petitioner was discharged.



19. In Chan Hong Siak through Arvinder Singh vs. State & Anr., decided vide CRL.M.C. 3576/2011 like in the present case, a single live cartridge was found from the possession of the alleged offender. Finding that there were no suspicious circumstances other than the mere recovery of the live cartridge from the possession of the charged individual, the learned Single Judge quashed the criminal proceedings by observing that the “single live cartridge cannot be used for the purpose without firearms”.

20. Similar, observations have been made consistently by the co-ordinate Bench of this Court in Narinderjit Kaur Singh vs. State (NCT of Delhi) decided vide W.P.(CRL) 1669/2017 and Nimesh Kumar vs. State of NCT of Delhi, decided vide W.P.(CRL) 3540/2017.

21. The circumstances in which the three cartridges were recovered from the Petitioner have been explained by him, who stated that he was not even aware of the cartridges in the packet in his bag. The ammunition belonged to his late father who served in the Indian Army in the Indo-Pak War in 1971. Thus, due to an oversight, the Petitioner failed to thoroughly check the packets before packing his bags. These obsolete cartridges remained unnoticed in the suitcase, ultimately leading to the present case.

22. The circumstances as explained by the Petitioner, clearly establish that there was *no criminal intent on his part*. It can be inferred that presence of the cartridges was without the knowledge of the Petitioner and he did not have the requisite *men rea*. It is thus, held that the possession of cartridges was not *conscious possession* and does not disclose commission of any offence punishable under Section 25 Arms Act, 1959.



2025:DHC:6790



23. Accordingly, *FIR No. 54 / 2022 under Section 25 of the Arms Act, 1959* at Police Station I.G.I. Airport and all consequential proceedings emanating therefrom, are quashed.

24. The Petition along with Pending Application (s), if any, is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 11, 2025/R