



2025:DHC:262



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 16th January, 2025

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W.P.(CRL) 127/2025**MS AASTHA AGRAWAL**

.....Petitioner

Through: Mr. Siddharth Goswami, Ms. Priya Nagar & Mr. Aakash Sharma, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Yasir Rauf Ansari, ASC, CrI., Mr. Alok Sharma & Mr. Vasu Agarwal, Advocates for State.
S.I. Ashok Kumar, PS IGI Airport, Delhi.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CRL.M.A. 1066/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

W.P.(CRL) 127/2025

3. Petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed on behalf of the Petitioner seeking to quash the FIR No. 0727/2024 under Section 25 of the Arms Act, 1959 (*hereinafter referred to as the "Act, 1959"*) registered at Police Station IGI Airport, Delhi.
4. It is submitted in the Petition that the Petitioner was travelling in a flight to Gwalior *via* Delhi from Vadodara, on 24.09.2024 to attend the funeral ceremony of her maternal grandmother (Naani). She was carrying her handbag in which one 8mm live ammunition was recovered at IGI



Airport, Delhi. She asserts that she has no idea of how it came into her handbag.

5. The Petitioner is a student and pursuing her Master of Surgery in Obstetrics and Gynaecology at Sumandeep University, Vadodara.

6. It is asserted that there was no conscious possession of the said ammunition. Therefore, the prayer is made that the present FIR may be quashed.

7. ***Issue notice.***

8. Mr. Yasir Rauf Ansari, learned Additional Standing Counsel accepts notice on behalf of the State. He submits that the Petitioner in her Disclosure Statement, has categorically stated that while she was strolling in the park, she found one 8mm live ammunition and had picked it and kept in her handbag.

9. In these circumstances, it cannot be said that it is not a conscious possession and the FIR is not liable to be quashed.

10. **Submissions heard and record perused.**

11. Admittedly, one 8mm live ammunition has been recovered from the possession of the Petitioner during her baggage scanning at a Security Check at IGI Airport, Delhi, while she was traveling from Vadodara to Gwalior via, Delhi.

12. The pre-condition for an offence under Section 25(1)(a) of 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 under Section 25 of the Act, 1959 as held by the Constitution Bench of the Apex Court in *Gunwant Lal v. The State of Madhya Pradesh*, (1972) 2 SCC 194.



13. In Sanjay Dutt v. 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] A.C. 458.”

14. In Gaganjot Singh v. State, 2014 SCC OnLine Del 6885, the Coordinate 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.

15. In Chan Hong Siak through Arvinder Singh v. State, 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



2025:DHC:262



cartridge “cannot be used for any purpose without firearms”.

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

17. The circumstances in which the live cartridge was recovered from her possession, have been explained by the petitioner who has stated that she was not even aware of the cartridge in her baggage and does not have any Arms License. The Petitioner is a student and pursuing her Master of Surgery in Obstetrics and Gynaecology at Sumandeep University, Vadodara. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on part of the Petitioner.

18. In light of the aforesaid judgements, the recovery of live cartridge from the bag of the petitioner about which she was not even aware, does not disclose commission of any offence punishable under Section 25 of the Act, 1959.

19. Accordingly, FIR bearing No. 0727/2024 registered at Police Station, IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating therefrom, are quashed.

20. The present Petition is disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 16, 2025

S.Sharma