

(2025) 08 DEL CK 0672

In the Delhi High Court

Case No : Writ Petition (Crl) No. 2468 Of 2025

Ravinder Singh

APPELLANT

Vs

State (Nct Of Delhi)

RESPONDENT

Date of Decision : 08-08-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Code of Criminal Procedure, 1973 — Section 482
Arms Act, 1959 — Section 2(b), 19(1)(f), 25, 25(1)(a)

Citation : (2025) 08 DEL CK 0672

Hon'ble Judges : Ravinder Dudgea, J

Bench : Single Bench

Advocate : Rajeev Kumar, Alka Srivastava, Sanjay Lao

Final Decision : Allowed

Judgement

Ravinder Dudgea, J.

1. The present Writ Petition has been filed under Article 226 of the Constitution of India along with section 528 of the BNSS, 2023, seeking quashing of the FIR No. 0493/2024 registered at PS IGI Airport under section 25 of the Arms Act, 1959 and proceedings emanating therefrom.

2. Briefly stated, the facts as per the FIR are that on 11.07.2024, during baggage screening at Terminal-3 of IGI Airport, four undeclared live cartridges were detected in the check-in baggage of the petitioner bound for Mumbai by flight no. AI0865. Upon physical inspection in the presence of airline security staff, it was found that the cartridges, each measuring 32 mm in length and 9mm in diameter with markings "32 S & W LONG S & B" were seized, and a sketch memo was prepared. The ammunition was sealed and handed over to the police, and a complaint was lodged by SI EXE Kaulshik Chaturvedi, CISF Unit, IGI Airport, New Delhi. 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 Mukesh Kumar.

3. Learned counsel for the petitioner submits that the petitioner had neither knowledge nor conscious possession of the four 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. It is also submitted that the petitioner is holder of a valid Arms licence.

4. Furthermore, it is contended that the petitioner placed the four cartridges in his coat pocket which he later packed in his baggage and 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. Status report filed by the State is taken on record. The learned Standing Counsel submits that during the course of investigation, the petitioner stated that he is holder of a valid Arms licence bearing No. 4468/DM/SNP/March/08 issued by District Magistrate, Sonipat, Haryana. The said Arms license held by the petitioner was sent for verification to the issuing authority. The verification report dated 01.07.2025 received from Deputy Commissioner of Police, Hqrs. Sonipat vide reference no. 648/ALC dated 23.06.2035 confirmed that the Arms license issued in the name of the petitioner, was valid up to 01.03.2028.

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. As per the status report, the recovered ammunition was sent to FSL Rohini which in its report vide FSL Reference No. SFSLDLH/10217/BAL/964/24 dated 03.02.2025 opined that the ammunition recovered from the petitioner falls under the category of "Ammunition" as defined in the Arms Act, 1959.

8. Heard learned counsel for the respective parties and perused the record.

9. It is an admitted fact that no weapon was recovered from the petitioner by the Airport Security Staff and only four 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."

10. 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. 11. As held in State of A.P. Vs. Golconda Linga Swamy & Anr. (2004) 6 SCC 522, 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 proceeding.

12. In Adhiraj Singh Yadav v. State in W.P.(CRL.) 754/2020, vide order dated 31.12.2020, a coordinate bench of this Court quashed an FIR registered under 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.

xxx

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; ArunaChaudhary 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)]."

13. 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."

14. The petitioner is holder of an authorized Arms license. In the circumstances of the case, it seems probable that petitioner may have inadvertently carried the ammunition, since if he were to consciously carry the cartridges, he would have carried the weapon along as well. As per the status report, the Arms license of the petitioner has been duly verified and 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.

15. In view of the facts and circumstances of the case, no useful purpose will be served by continuing with FIR No. 0493/2024, dated 11.07.2024, registered at PS IGI Airport under section 25 of the Arms Act and all other consequential proceedings emanating therefrom.

16. In the interest of justice, the petition is allowed and the FIR No. 0493/2024, dated 11.07.2024, registered at PS IGI Airport under section 25 of the Arms Act and all other consequential proceedings emanating therefrom is hereby quashed.

17. Accordingly, the petition is allowed and disposed of.

18. Pending application(s), if any, also stand disposed of.