

**(2025) 11 DEL CK 1893**

**In the Delhi High Court**

**Case No : Writ Petition (Crl) No. 2850 Of 2024**

Tushar Kanti Ghosh

APPELLANT

Vs

State (Nct Of Delhi)

RESPONDENT

**Date of Decision : 11-11-2025**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Code of Criminal Procedure, 1973 — Section 482  
Arms Act, 1959 — Section 25, 25(1)(a)  
Evidence Act, 1872 — Section 65B

**Citation : (2025) 11 DEL CK 1893**

**Hon'ble Judges : Neena Bansal Krishna, J**

**Bench : Single Bench**

**Advocate : Varun Malik, Dr. Ajay P. Tushir, Sanjay Lao**

**Final Decision : Disposed Of**

## Judgement

Neena Bansal Krishna, J

1. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "C.r.P.C.") has been filed on behalf of the Petitioner seeking to quash the FIR No. 376/2024 registered under Section 25 of the Arms Act, 1959 (hereinafter referred to the "Act, 1959") Police Station IGI Airport, Delhi.

2. The Petitioner is an Indian National and works as an R&D Engineer at Synopsys (India) Pvt. Ltd. On 31.05.2024, at about 14:32 Hrs, while travelling from New Delhi to Kolkata by Air India Flight No. AI-764, during the scanning of the baggage at IGI Airport, 01 live ammunition(bullet) was recovered from the Petitioner's bag under tag no. AI-0098810665.

3. The Petitioner submits that he was unaware of the presence of the live bullet in his baggage and was shocked upon their discovery. There is no Chargesheet filed in the case as yet.

4. The Petitioner has been facing unnecessary problems due to pendency of the FIR and has sought quashing of the said FIR no. 376/2024 on the ground that he had no there was no mens rea on his part to commit any offence as alleged. The Petitioner did not attempt to conceal the live ammunition (bullet) and had voluntarily handed over his baggage for X-ray screening, where such items are easily detectable. It is thus evident from the record that the presence of the live ammunition(bullet)was without the Petitioner's knowledge, and he lacked the requisite intent to commit the alleged offence.

5. It is stated that there is no status report filed in the case. However, as borne out from the FIR, the complaint was lodged by Sh. Ujjwal Kumar, Sr. Associate, Employee No. 0007516, DIAL Security & Vigilance, IGI Airport, New Delhi, wherein it is stated that on 31.05.2024 at about 14:32 hours, an image of baggage bearing tag number AI-0098810665 appeared at Level-2 and was flagged for physical check on suspicion of containing ammunition.

6. The bag was thereafter physically inspected at Level-4 at about 16:50 hours, in the presence of the passenger Mr. Tushar Kanti Ghosh (petitioner herein) and airline security staff Mr. Prashant Chaudhary, AVSEC No. DEL2301020500, during which one live ammunition of make Blazer 9mm Luger was recovered from the petitioner's baggage.

7. It is further recorded that the recovery and requisite checking formalities were completed in the presence of the petitioner, after which the petitioner, along with the seized ammunition, original boarding pass, X-BIS image of the ammunition, certificate under Section 65B of the Indian Evidence Act, 1872, and BCAS Circular No. 08/2017 dated 04.07.2017, were handed over to the SHO, PS IGI Airport, leading to registration of FIRNo. 376/2024.

8. It is further revealed that upon enquiry conducted by the investigating agency, it was found that the petitioner had no knowledge regarding the live ammunition recovered from his baggage bearing tag number AI-009881066.

9. It is also placed on record that post verification, the arrest of the petitioner was deferred and he was duly discharged from the police station. The petitioner is neither in police custody nor in judicial custody and is stated to be a permanent resident of the State of West Bengal, thus having roots in society.

10. The pre-condition for an offence under Section 25(1)(a) of the Arms Act, 1959 is the element of intention 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.

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

1. "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."

12. In Gaganjot Singh v. 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.

13. 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.

14. The circumstances in which the live ammunition was recovered from his possession have been explained by the Petitioner who has stated that he was not even aware of the ammunition in his baggage. Upon verification by the police, it was stated that the live ammunition does not belong to the Petitioner. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent either on part of the Petitioner.

15. In the light of the aforesaid judgments, the recovery of live cartridge from the bag of the Petitioner about which he was not even aware, does not disclose commission of any offence punishable under Section 25 of the Arms Act, 1959.

16. Accordingly, FIR bearing No. 376/2024 registered at Police Station IGI Airport, Delhi, for offence punishable under Section 25 of the Act, 1959 and all consequential proceedings emanating there from are quashed.

17. The present petition along with pending application is disposed of.