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

\# **CNR No. DLHC010210812026**

\+ CRL.M.C. 3693/2026, CRL.M.A. 14974/2026

SANMEET SINGH GORAYA .....Petitioner

Through: Mr. Shaurea Tyagi, Advocate (through VC).

versus

STATE OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP for the State.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

O R D E R

% 13.10.2026

1. Hybrid mode.

2. By way of the present petition, the petitioner seeks quashing of FIRNo.138/19 under section 25 Arms Act PS Domestic Airport, New Delhi and all proceedings emanating pending before learned Judicial Magistrate First Class, Dwarka Courts.

3. Status Report has been filed backed with the verification report of the Arms Licence bearing No. 00/997/PSCL/ JULY/DM/ASR 94, issued in the name of petitioner by DM Punjab. Same is taken on court record.

4. The brief facts, as per the prosecution's case are, that on 10.12.2019 petitioner was travelling with his family from Delhi to Pune via Indigo Airlines. They were travelling with 05 bags for check-in, out of which one bag was routed to Level-04 for physical check. During the physical check one (01) live cartridge was recovered which has been described as "3.2 CM

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in length and 0.9 CM in diameter, with the inscription 'K.F. 32S&W.L' engraved on its base, of .32 S&W Long caliber". Upon inquiry by the CISF officials, the petitioner failed to produce any valid licence or authorization for carrying the said ammunition at the time of checking.

5. The FIR No.138/2019 was then registered at PS Domestic Airport (IGI Airport) under section 25 Arms Act, 1959. The cartridge was sent to the Forensic Science Laboratory, Government of NCT of Delhi, Rohini, vide Memo No. 162 dated 21.01.2020. The FSL, Ballistics Division, Rohini vide Report No. SFSL DLH/664/ BAL/139/20 dated 24.09.2025, opined that the .32" cartridge marked exhibit 'A1' is live and can be fired through a .32" caliber firearm and that it was test-fired through revolver bearing No. 'A-3734M' marked exhibit 'F1' in SFSL Case No. DLH/5102/BAL/533/24.

6. Thereafter, sanction for prosecution U/s 39 of the Arms Act, 1959 was granted on 04.11.2025 by the Deputy Commissioner of Police, IGI Airport, New Delhi.

7. Aggrieved by the aforesaid developments, the petitioner has preferred the present petition for quashing of the present FIR.

8. While praying for quashing of FIR and the criminal proceedings emanating therefrom, the learned counsel for the petitioner argued that petitioner had no knowledge regarding the presence of the aforesaid ammunition/cartridge in his bag. He came to know only when informed by the security officials of the Domestic Airport (IGI Airport) about the same. It is further submitted that petitioner had no intention to carry live ammunition/ cartridges and the recovered live cartridge, in any case, cannot be used for any purpose without a firearm. Therefore, it does not attract any offence especially in the absence of any knowledge of conscious possession.

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9. It is submitted that petitioner is a man of repute and is an Agriculturist by profession and runs an electronics repairs store, having deep roots in the society. He has clear antecedents with no involvement in any criminal activity whatsoever. It is further submitted that petitioner was not carrying the said ammunition in his bag intentionally rather could not check the contents of the bag thoroughly, which was one among 5 check-in baggages that he and his family were carrying while travelling. It is further submitted that petitioner has a valid licence of the firearm in respect of the ammunition recovered from his possession.

10. It is in fact, vehemently argued by learned counsel for the Petitioner that the petitioner holds a valid Arms Licence and the live ammunition which was recovered at the time of physical check at the Airport, is of the same bore of the weapon / pistol of which Petitioner is a licence holder. Therefore the petition for quashing of FIR, may be allowed. It is submitted that arms licence annexed with the record and the verification report dated 09.10.2026 filed by the prosecution clearly reflects that the Petitoner is verily a valid license holder for the type of ammunition that was recovered.

11. Learned APP for the State has opposed the present petition. It is submitted that the recovered ammunition was sent to FSL, for expert opinion and the report received from the FSL is there on record, which clearly establish that .45 bore live cartridges were sent to FSL, which was recovered from the possession of the Petitioner.

12. This Court has considered the arguments raised by the contesting sides on behalf of the petitioner as well as State, and also perused the material available on record.

13. The Constitutional Bench of the Hon'ble Supreme Court in the case of

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Gunwantlal v. The State of Madhya Pradesh, (1972) 2 SCC 194 has explained the meaning of possession in the context of Section 25 of the Arms Act, 1959 and held as under:-

> *"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 none-the-less 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 (sic) 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."*

14. The above proposition of law was reiterated by the Hon'ble Supreme Court in ***Sanjay Dutt v. State Through CBI Bombay*****:** (II) Crimes 1994 (3) 344 (SC) and held 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*

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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 unauthorised substance has been understood."

15. In ***Chan Hong Saik Thr. Spa: Arvinder Singh v. State & Anr,*** 2012 SCC OnLine Del 3320, following observations were made by a Coordinate bench of this Court:

"*38. In the present case, single live cartridge which is found without any fire arm and specially at the stage when he was to leave this country to his native country.*

*39. The case of the prosecution is not that he extended any threat to any of the authority or the fire arms or ammunition was found with any of this group persons including his own son who was travelling with him. ****

*43. Single live cartridge cannot be used for any threat purpose without fire arms. Value of the same in the market is also not attractive. It cannot be used for any third purpose. If the intention of the petitioner was not of either of the purpose mentioned above, then he cannot be held guilty and punished for the charge framed against him. ****

45. Though, the petitioner has not admitted recovery of the cartridge and claimed trial, however, even if it is admitted, in my considered view, he cannot be punished for the charge framed against him because a single cartridge without fire arm is a minor ammunition which is protected under clause (d) of section 45 of the Arms Act..."

16. It can be very well seen that Courts have viewed and treated conscious possession as possession, ignoring the proposition that mere custody of a particular object to equate, treat or bring it into the realm of any offence. Thus, mere possession / custody in itself without there being any

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mental awareness of the custody or possession does not mean, as contemplated *qua* the offence with which the Petitioner is proposed to be prosecuted.

17. In the present case, there is nothing on record to suggest that petitioner was in conscious possession of the 01 live cartridge /ammunition and that he was aware of the said fact in any manner. Mere recovery of cartridge itself is not sufficient to prove the offence in the absence of any element of conscious and deliberate possession. It is apparent from the record that the petitioner was unaware of the fact that the cartridge was in his bag. It is also a matter of record that no weapon was recovered from the petitioner to connect him with any such intention to use the recovered cartridge(s) for committing any offence. His Arms License has been verified which entitles him to possess the ammunition and firearm in terms of the license. He has clean antecedents as nothing has been reported.

18. In view of the above discussion, this Court is of the opinion that no offence is made out against the petitioner as alleged under the Arms Act. This Court is further of the view that allowing continuation of criminal proceedings against the petitioner will be an abuse of process of law. The petition is, therefore, allowed and the FIR bearing no .138/2019 registered at PS Domestic Airport, (IGI Airport), for the offence punishable under Sections 25 Arms Act, 1959 and all consequential proceedings emanating therefrom are hereby quashed.

19. Accordingly, the present petition is disposed of.

VIMAL KUMAR YADAV, J

OCTOBER 13, 2026/*bj*

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