



2026:DHC:8083



\$~51

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**# **CNR No. DLHC010977062024**+ **W.P.(CRL) 4017/2024 and CRL.M.A. 29015/2026**Date of decision: **18.09.2026****IN THE MATTER OF:**

ANIL KUMAR SINGH

.....Petitioner

Through: Mr. K.P. Tevathia, Mr.P.K. Daksh
and Mr. Akhand, Advocates.

versus

STATE

.....Respondent

Through: Ms. Rupali Bandhopadhyia, ASC for
State with SI Ashok, PS IGI Airport.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The instant petition is for the following reliefs:-

*"a. Allow the present petition and quash the FIR bearing No. 0426/2024, U/s 25/54/59 of Arms Act, 1959, Police Station: I.G.I. Airport, District: IGI Airport (Delhi).**b. Any other further order, which this Hon'ble Court deems fit may also be passed in favour of the Petitioner in view of the above mention facts and circumstances in the interest of justice."*

2. Mr. K.P. Tevathia, learned counsel for the petitioner submits that the petitioner is a responsible public servant and a valid arms licence holder, and



that the cartridges recovered from his baggage had been lawfully purchased under the said licence. It is submitted that the petitioner was unaware of their presence in the baggage and, therefore, was not in conscious possession thereof. It is further submitted that the petitioner duly joined the investigation and cooperated with the investigating agency. It is thus contended that the essential ingredients of the offence under Section 25 of the Arms Act, 1959 are not made out and continuation of the proceedings would amount to an abuse of the process of law.

3. Ms. Rupali Bandhopadhyaya, learned ASC appearing on behalf of the respondent-State submits that the aforesaid submissions made on behalf of the petitioner have been duly verified during investigation. The petitioner is a valid arms licence holder and the ammunition recovered from his baggage was duly covered by the said licence, though the licence was valid only within the State of Uttar Pradesh. In view of the verification so conducted, it is submitted that no useful purpose would be served by continuation of the FIR and the consequential proceedings.

4. The verification report is reproduced as under:-

S. No.	Question	Answer
1.	Whether Arms License bearing No.3030/GS part V was issued in the name of Shri Anil Kumar Singh S/o Mr. Shoaib Haider, APP for State. Virender Bahadur Singh	Yes
2.	Whether the Arms license bearing No.3030/GS part V was valid on date of incident i.e. 22.06.2024.	Arms license number 3030/GS Part-V renewed upto 27/12/2026
3.	Details of description and calibre of the Arms for which the license was issued	NP Bore Pistol No. RP-130246 Quantity of ammunition-To be possessed at any time-10



	Purchasable during the year 2025
--	----------------------------------

5. I have heard learned counsel for the parties and have perused the record.

6. The law on the point stands authoritatively settled by the Constitution Bench of the Supreme Court in ***Gunwantlal v. State of Madhya Pradesh***,¹ wherein it was 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 nonetheless a power or control over that weapon so that his possession thereon continues despite physical possession being in someone else... 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.”

7. This position was reiterated by the Constitution Bench in ***Sanjay Dutt v. State through CBI, Bombay (II)***,² while construing an analogous provision of the Terrorist and Disruptive Activities (Prevention) Act, 1987:

“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 unauthorised substance has been understood.”

¹ (1972) 2 SCC 194

² (1994) 5 SCC 410



8. Applying the above principles, this Court has, in a consistent line of decisions, held that an offence under Section 25 of the Act of 1959 is not made out where the suspect was not conscious of being in possession of live ammunition. In **Adhiraj Singh Yadav v. State**,³ it was held:

“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.”

9. Similarly, in **Pritpal Singh v. State**,⁴ a case bearing close factual resemblance to the present one, in that the petitioner therein was found carrying 14 live cartridges without the accompanying weapon, this Court observed that Section 45(D) of the Act of 1959 does not, by itself, criminalise the “acquisition/possession or carrying of minor parts of arms or ammunition which are not intended to be used along with complementary parts.”

“The State has not alleged that the possession was conscious or there was some mens rea behind carrying the cartridges. The present case seems to be a case where the petitioner inadvertently carried the cartridges in his bag.”

10. On careful consideration, this Court is of the view that the conscious possession contemplated under Section 25 of the Act of 1959, as explained in **Gunwantlal** (supra) and **Sanjay Dutt** (supra), is concerned with the mental element accompanying the custody of the arms or ammunition, that is, whether the person concerned was, at the relevant time, aware that he possessed the article in question, and possessed the requisite intention or control over it. It does not extend to an examination of the wisdom, propriety, or legality of the manner in which such a person, upon becoming

³W.P.(Crl.) 754/2020, decided on 31.12.2020.



so aware, chooses to divest himself of the article.

11. The Coordinate Benches of this Court in ***Golap Saikia v. State (NCT of Delhi)***,⁵ and ***Narendra Kumar Gupta v. State of NCT of Delhi***,⁶ in similar circumstances, where a live cartridge was detected in the baggage of the petitioner at IGI Airport, observed that where the possession of the ammunition is unconscious, an offence under Section 25 of the Arms Act, 1959 would not be made out. The FIR registered under Section 25 of the Arms Act, 1959 was accordingly quashed.

12. It is a settled principle of jurisprudence that every *bonafide* oversight or inadvertent mistake cannot be elevated to the status of a crime. Where an act is done inadvertently, unconsciously, or under a genuine mistake of fact, the essential element of criminal intent is missing. In statutory offenses requiring possession, an unintended, oversight-led carrying of an article without mental awareness cannot attract criminal prosecution or penal liability.

13. In the present case, the verification conducted by the respondent-State establishes that the petitioner was holding a valid arms licence and that the ammunition recovered from his baggage was covered thereunder. No firearm was recovered from the petitioner. Significantly, the State has also not disputed the petitioner's explanation that the ammunition had remained in his baggage inadvertently and has submitted that no other incriminating material has surfaced during investigation. Thus, there is no material on record which would indicate that the petitioner was in conscious possession of the ammunition in question. In these circumstances, continuation of the

⁴CRL.M.C. 5732/2019 & CRL.M.A. 40024/2019, decided on 01.05.2024.

⁵ 2017 SCC OnLine Del 7680



2026:DHC:8083



criminal proceedings would serve no useful purpose and would amount to an abuse of the process of law.

14. Accordingly, FIR No. 0426/2024 registered for the offences punishable under Sections 25/54/59 of the Arms Act, 1959 at P.S. IGI Airport and all consequential proceedings emanating therefrom *qua* the petitioner are hereby quashed.

15. The petition is accordingly allowed and disposed of, along with pending applications, if any.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 18, 2026
Nc/Rao