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

% **Pronounced on: 22nd March, 2022**

\+ **W.P.(CRL) 583/2022**

KARAMJIT SINGH ..... Petitioner
Through: Mr. Ajay Pal Tushir, Advocate

versus

THE STATE (N.C.T. OF DELHI) ..... Respondent
Through: Mr.Avi Singh, ASC with Mr. Karan Dhalla and Mr. Mizba, Advocates for State with SI Ramesh Chand, PS I.G.I Airport

CORAM:
HON'BLE MS. JUSTICE ASHA MENON

O R D E R

1. This petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.108/2020 under Section 25 of the Arms Act, 1959 registered at P.S. IGI Airport, Delhi and consequential proceedings emanating therefrom.

2. Mr. Ajay Pal Tushir, learned counsel for petitioner, submits that the petitioner is a Non-Resident Indian (NRI), who was travelling from Delhi to Dubai by Air India Flight No.AI-915 on 26th February, 2020, when two live ammunitions were detected in his check-in baggage. Upon verification, it was found that these bullets were from the pistol of the petitioner, for which he had a valid licence bearing No.

DM/FKD/Arms/SKTP/0616/650. The learned counsel further submitted that the petitioner was not in conscious possession of these two cartridges and that the same could not be used for any threat purpose, in the absence of any fire arm.

3. Mr.Avi Singh, learned Additional Standing Counsel for State, conceded that the petitioner had a valid Arms License issued to him in Punjab and on instructions, informed that this fact has been verified.

4. Though the prosecution alleges that the petitioner has not been able to prove that he was not in the conscious possession of these cartridges, learned counsel for petitioner has relied on decisions of the Supreme Court in ***Gunwantlal Vs. State of Madhya Pradesh*** (1972) 2 SCC 194 and ***Sanjay Dutt Vs. State through CBI Bombay (II)*** (1994) 5 SCC 410, and several decisions of the Coordinate Benches of this Court in ***Gaganjot Singh Vs. State*** 2014 SCC OnLine Del 3730, ***Sonam Chaudhary Vs. State*** 2016 SCC OnLine Del 47, ***Michael Joseph Hayden Vs. State (GNCT)*** (2018) SCC Online 8940, ***Jasbir Chahal Vs. State*** (2018) SCC OnLine Del 8839 and ***Undis Vatvedt Singh Vs. State*** (2018) SCC OnLine Del 8591, to submit that in cases like the present one, where there was no "conscious possession", the courts have been quashing the FIRs and therefore, prays that the FIR in question and all proceedings arising therefrom be quashed.

5. I have heard the submissions of learned counsel for petitioner as also the learned Additional Standing Counsel for the State and have perused the cited judgments. The Coordinate Benches of this Court in various decisions, including ***Davinder Singh Dhindsa v. State (NCT of Delhi),*** 2019 SCC OnLine Del 7895*;* W.P.(Crl.) 754/2020 titled ***Adhiraj Singh***

Yadav v. State [Order dated 31st December, 2020], ***Jasbir Chahal v. State***, 2018 SCC OnLine Del 8839 and ***Dhanwant Kaur v. State***, 2016 SCC OnLine Del 5492, where 1 or 2 live cartridges have been found in the possession of the accused, have taken a view that *mens rea* or *mala fide* intention must be present supporting a *"conscious possession plea"* of the prosecution and in the absence of any such evidence, even *prima facie,* there would be no reason to deny the relief to the petitioner.

6. The petitioner has a valid arms licence. The bullets recovered were relatable to the licensed weapon. Two live ammunitions were found in the check-in baggage of the petitioner. There is no *prima facie* evidence that he had any *mala fide* intent in keeping the ammunition. The safety of passengers was not threatened. The possession was not conscious.

7. In the totality of the circumstances, following the view adopted by this court in several cases, as noted hereinabove, since no *mala fides* or mal-intention is evident from the facts and the record, this Court is of the considered opinion that the powers under Section 482 Cr.P.C. are required to be exercised in the present matter.

8. Accordingly, the petition is allowed and the FIR No.108/2020 under Section 25 of the Arms Act, 1959 registered at P.S. IGI Airport, Delhi and all the proceedings emanating therefrom are quashed.

9. The petition stands disposed of.

10. The order be uploaded on the website forthwith.

(ASHA MENON)
JUDGE

MARCH 22, 2022
s