



CRR-2878-2022(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2878-2022(O&M)

Reserved on: 04.09.2025

Pronounced on: 15th September, 2025

Amritpal Singh

.....Petitioner

Versus

Union Territory Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. S.P.S. Sidhu, Advocate for the petitioner.

Mr. Vaibhav Mittal, A.P.P., U.T. Chandigarh.

SANJAY VASHISTH, J.

1. By way of present criminal revision petition, petitioner-Amritpal Singh, challenged the judgment of conviction passed under Section 25 of the Arms Act, 1959, as well as the order of sentence whereby he was sentenced to three years of rigorous imprisonment along with a fine of ₹1,000/-. In default of payment of the fine, he was directed to undergo an additional 15 days of imprisonment.

Judgment of conviction dated 13.05.2022, passed by learned Judicial Magistrate First Class, Chandigarh (Trial Court), and consequential order of sentence of the same date, were upheld by the learned Additional Sessions Judge, Chandigarh (Appellate Court) vide judgment dated 05.12.2022.

2. As per the prosecution case, on 11.11.2016, while the police team was on patrolling duty, at approximately 9:40 p.m., a wireless message was received from the control room stating that an individual was carrying illegal arms in CTU Bus No. CH01-G-5307. A naka was

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subsequently established near the police post at Palsora, where the bus was stopped and passengers were instructed to remain seated. When the accused (petitioner herein) attempted to disembark the bus, he was apprehended by the police team members. Upon inquiry, he disclosed his name as Amritpal Singh. During a search, he was found in possession of one revolver of .32 bore caliber along with sixteen live cartridges secured on a belt, without holding any valid arms license or permit. A complaint was prepared, and a rukka was sent for the registration of an FIR, following which necessary steps for the investigation were initiated.

3. After submission of final report before the Court, the trial proceeded, and charges were framed against the petitioner for offences punishable under Sections 25/54/59 of the Arms Act, to which he pleaded not guilty. During the course of the trial, prosecution examined Retired Sub-Inspector Rajwant Singh as PW-1, who proved the original complaint as Exhibit P-1, the FIR as Exhibit P-2, the rough site plan of the place of incident as Exhibit P-3, the personal search memo as Exhibit P-4, the seizure memo of parcels as Exhibit P-5, and the sketch of the weapon as Exhibit P-6. PW-1 also identified the accused present in the Court.

4. PW2, Head Constable Het Ram, corroborated the statement of PW1 and further proved the application submitted by him to the District Magistrate cum Arms Licensing Authority, Jalandhar (Punjab), marked as Exhibit P-7, office report as Exhibit P-8, and sanction order issued by the District Magistrate, U.T. Chandigarh, marked as Exhibit P-9.

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5. PW3, Ajit Kumar, Duty Inspector, testified to proving the route taken by the bus.

6. PW4, Devinder Singh, Conductor of the bus, deposed that the bus had travelled from Chandigarh to Amritsar and, on their return journey to Chandigarh, upon reaching near Max Hospital, the bus took a turn towards Mandi where a police barrier was established. Upon police inquiry, the bus was stopped, and during the checking of passengers, the accused was found in possession of one pistol of .32 bore along with 16 live cartridges.

7. PW5, Head Constable Bhir Bhan, proved the Register No. 19 along with a true copy of its entry No. 190 (marked as Exhibit PW5/1) and the case property, which was marked as Exhibit MO1.

8. PW6, Hardial Singh, Driver of the bus, appeared and corroborated the statement of PW4, Devinder Singh-Conductor.

9. PW7, Rajinder Kumar, Clerk of the Arms License Branch, proved the summoned records, specifically the Arms License Issuance Register covering license numbers 20741 to 20925. As per his deposition, License No. 20923 was issued in the name of Amritpal Singh (petitioner herein) for a .32 bore revolver, and the license was valid for the jurisdiction of Punjab. PW7 also proved the office report marked as Exhibit P-8, entry as Exhibit PW7/1, issuance receipt as Exhibit PW7/2, addition of weapon as Ex.PW7/3 and entry of weapon as Ex. PW7/4.

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10. While recording the statement under Section 313 of the Criminal Procedure Code, petitioner pleaded innocence and false implication; however, he did not lead any defence evidence.

11. Undisputed fact in this case is that petitioner while travelling in the bus was carrying a weapon (pistol of .32 bore) along with 16 live cartridges. However, as per allegation, petitioner was in the area of U.T. Chandigarh without valid permission from the U.T. Administration. Prosecution's case broadly is that, although the petitioner possessed a license issued by the Arms and Licensing Authority, Jalandhar, but said license did not authorize him to carry the weapon within the area of U.T. Chandigarh. As per the report marked as Exhibit P-8, the license was valid only within the State of Punjab.

12. It is an admitted fact that the petitioner boarded the bus at Jalandhar and purchased a ticket from the conductor (PW4, Devinder Singh) to deboard at Mohali.

The legal issue involved in the present petition is whether the act of carrying a licensed weapon, issued for use within the State of Punjab, into an area outside its jurisdiction—specifically the Union Territory of Chandigarh—constitutes a violation of Section 3(1) of the Arms Act, 1959. Further, in the absence of any mens rea or bad intention, whether such an act would justify conviction under the Arms Act.

13. In order to address this issue, depositions of PW1 Retired SI Rajwant Singh, PW2-HC Het Ram, and PW4 Devinder Singh (Conductor) are particularly material. PW1, who is Investigating Officer also, stated that a wireless message was received from the Control Room

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alleging that an individual was carrying illegal arms in CTU Bus No. CH01-G-5307. Based on this information, he, along with Constable Suresh Kumar and HC Het Ram, proceeded to the vicinity of the Police Post at Palsora and established a naka.

This part of the testimony was corroborated by PW2 HC Het Ram. However, surprisingly, no evidence was produced to substantiate that the police had any prior information about the petitioner in specific carrying illegal arms in the CTU bus. This appears to be improbable and suggestive of an afterthought, particularly since the petitioner boarded the bus at Jalandhar with a licensed weapon valid for the State of Punjab. There was no reasonable expectation that the petitioner would enter the area, where his license would be considered invalid; therefore, it is unlikely that prior information was there with the police team.

It is undisputed that till the time, recovered weapon and cartridges were in possession of petitioner, while travelling within the State of Punjab, no offence was being committed, as petitioner was holding arm license for its possession within that area.

14. Further, during cross-examination of PW2 HC Het Ram, it was elicited that the bus stopped at a red light before entering Chandigarh, and no inquiry was made to determine whether the petitioner intended to deboard at Mohali or Chandigarh. The naka was established immediately on the border between Mohali and Chandigarh, approximately 100 yards opposite the Palsora Police Post. Petitioner informed the investigating officer that he was in possession of a licensed weapon.



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15. In the cross-examination of PW4 Devinder Singh (Conductor), it has been admitted that petitioner boarded the bus at Jalandhar and purchased a ticket for Phase 6, Mohali, from the conductor himself. Petitioner's conduct was not suspicious, nor was there any complaint made against him. Upon reaching Mohali, petitioner was asleep on the bus. Despite the conductor's instruction to passengers destined for Phase 6 Mohali to disembark, petitioner did not do so and was left undisturbed.

To fully appreciate the significance of PW4 Devinder Singh's statement, the relevant part of it is reproduced hereunder for reference:

“ PW4 Statement of Devender Singh, Re-called for cross-examination, on SA

Xxxx by SH. Gurwinder Singh, Adv., counsel for accused.

The accused boarded the bus from Jalandhar and he purchased the ticket from Jalandhar to Phase 6 Mohali. I myself sold the said ticket to accused. After accused boarded the bus none of his activity was suspicious nor any fellow passenger made complained against him. It is correct that accused has asked me whether he is having any medicine for headache as he was having the headache. I cannot give the medicine as I have not carrying the same. I do not know whether he had taken medicine from any fellow passenger or not. When the bus reached at Mohali the accused was sleeping in the bus. When the bus reached at the Phase 6 Mohali I announced that the stoppage of Phase 6 has come and the passengers who boarded the bus for Phase 6 may get down from the bus. I did not realise that the accused did not disembark the bus at his stoppage nor I had disturbed him as he was sleeping. We have stopped the bus after crossing Phase 6 light point where police officials



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boarded the bus, where two officials of the CRPF and 4-5 police officials of Chandigarh police. After entering the bus they made certain inquiry to me and thereafter, went to the accused who was sleeping at that time and after waken up started questioning to him. The accused co-operated with the police officials and thereafter accompanied them. No search of the accused done in my presence. It is incorrect to suggest that I am deposing falsely.”

16. As regards the validity of the license and possession of the weapon, statement of Rajinder Kumar, Clerk of the Arms License Branch, District Magistrate, Jalandhar, clearly establishes that the license issued in favour of the petitioner was valid only for the territory of the State of Punjab. According to the communication marked as Exhibits P-8 and P-9, License No. 20923 was valid from 03.02.2016 to 02.02.2019 exclusively within the State of Punjab. The relevant portion of the witness's statement is also reproduced hereunder for reference:

“ PW7 *Statement of Rajinder Kumar, Clerk Arms Licence Branch, District Magistrate, Jalandhar. On SA.*

Today I have brought the summoned record i.e. Arms License Issuance Register from Licence No.20741 to 20925. As per record licence No.20923 was issued in the name of Amritpal Singh s/o Sh. Harvinder Singh r/o Vill. Lohara, Distt. Jalandhar. The said licence was issued for the .32 bore revolver and licence was valid for the area of Punjab. Today I have seen the report prepared by our office i.e. Ex.P8 and I bears the signatures of Sonia, Sr. Assistant at point A and she has retired from the service. Photocopies of record are compared with original register and same are as follows:



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Entry Ex. PW7/1, issuance receipt Ex.PW7/2 addition of weapon Ex.PW7/3 and entry of weapon Ex. PW7/4.

Original register and record seen and returned.

XXX by Sh. Gurbinder Singh , counsel for the accused

Opportunity Given

Nil.

RO & AC Karanvir Singh/JMIC/CHD/13.10.2021.”

17. In support of the submission, Mr. Sant Pal Singh Sidhu, Advocate, contends that entire prosecution evidence fails to demonstrate any ill motive on the part of the petitioner for carrying the weapon into Chandigarh, which is only approximately 100 yards towards Chandigarh, from the permitted area in the State of Punjab, for which the petitioner held a valid license issued by the competent authority. Furthermore, no material has been brought on record to suggest that petitioner gained any unlawful advantage by carrying the weapon into the jurisdiction of U.T. Chandigarh.

It is submitted that, at the most, petitioner committed a technical violation of Section 3 (1) of the Arms Act, by remaining asleep on the bus while carrying weapon with him, because it travelled beyond the territorial limits of Punjab, as admitted by the bus conductor (PW4) and petitioner had valid license for the State of Punjab only. Therefore, it cannot be inferred that, petitioner had knowledge of possessing the weapon in an unauthorized area, nor he harbored any such motive.

To fortify this submission, Mr. S.P.S. Sidhu relies upon the judgments of the Hon'ble Delhi High Court in ***Sonam Chaudhary v. State (Government of NCT of Delhi) and another, 2016 (1) AD (Delhi)***



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761 (Law Finder Doc ID# 740662), and **Mohd Tarique Rehman v. State of NCT of Delhi**, wherein, under comparable circumstances where neither mens rea nor conscious possession was established, the Hon'ble Court quashed the First Information Report.

In the light of the above, counsel prays that present revision petition be allowed and the petitioner be acquitted of the charges.

18. On the other hand, while opposing the prayer, Mr. Vaibhav Mittal, Additional Public Prosecutor, U.T. Chandigarh, relying on the prosecution evidence, submits that petitioner has neither disputed the facts nor the charges framed against him. Furthermore, petitioner has not led any evidence in defence to disprove the charges. Therefore, such a plea cannot be entertained before this Court in the instant revision petition. Accordingly, he prays that the revision petition be dismissed.

19. I have heard the learned counsel for the parties and perused the record of the learned Court below.

20. The communication dated 09.05.2017 from the office of the District Magistrate, Jalandhar, clearly states that License No. 20923 was issued in the name of the petitioner and is valid for carrying a .32 bore revolver (No. A3624M-2015) and a .12 bore double barrel gun (No. 14906-89) along with 50 cartridges each, within the territory of the State of Punjab. The license is valid until 02.02.2019. The Arms License (Exhibits PW7/1 to PW7/4) has also been proved by the prosecution.

Considering the admission of PW4-Devinder Singh (Conductor), it emerges from the mouth of the prosecution witness that

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petitioner purchased a ticket from Jalandhar to Phase 6, Mohali, both locations within the Punjab area, indicating that at the time of embarking on the journey, there was no intention or element of wrongdoing on the part of the petitioner. Despite the bus belonging to the Chandigarh Transport Undertaking and being destined to enter the U.T. Chandigarh area, the ticket was purchased only for a destination falling within the State of Punjab, for which the petitioner held a valid license issued by the Arms Licensing Authority.

The statements of the witnesses further reveal that the petitioner was suffering from a headache and had requested tablets from the conductor. Since the tablets were unavailable, petitioner fell asleep.

This material explanation has not been challenged by the prosecution either through re-examination or by eliciting contrary facts during cross-examination. Additionally, it cannot be overlooked that the prosecution claims that police team had prior wireless information from Control Room regarding someone carrying illegal arms in CTU Bus No. CH01-G-5307. However, no entries or records relating to such information have been produced, nor has there been any testimony detailing when, by whom, or how such intelligence was gathered by the concerned police department, specifically the wireless control room.

For further reference paragraphs 22, 23, and 32 of the judgment in *Sonam Chaudhary v. State (Govt. of NCT of Delhi) (supra)* reads as under:

“22. As regards the first issue qua exemption under Section 45(d) of the Act, this issue is no more res integra as the same



has been decided by the Division Bench of this Court in the case of Gaganjot Singh v. State 2014 Law Suit (Del) 4968, wherein observed as under:-

"11. In Gunwantlal (supra), the Supreme Court emphasised the necessity for the prosecution to prove that possession of the arm or ammunition is a conscious one:

"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."

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As we said earlier, the first pre-condition 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."

This position was reiterated by the Constitution Bench in Sanjay Dutt(supra):

"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. (See **Warner v. Metropolitan Police Commissioner 1969 (2) AC 256 and Sambasivam v. Public Prosecutor, Federation of Malaya. 1950 AC 458.**)"*

12. As noticed previously, a solitary cartridge - which on examination by expert has been confirmed to be a live one -was found by the police. The petitioner was in possession of it. However, he expressed his lack of awareness of that article; and also that the bag from which it was recovered belonged to his uncle. The Police, in the final report, does not indicate that his statement is groundless; there is no material to show that he was conscious of his possession of the cartridge. Though the ballistic report confirms it to be cartridge and consequently it is "ammunition", by itself, that is insufficient to point to suspicion -much less reasonable suspicion of petitioner's involvement in an offence which, necessarily, has to be based on proven conscious possession. Since there is no such material, the offence cannot be proved even after a trial, which would have to proceed, if at all, on the interpretation of the Act placed by the decisions in *Gunwantlal (supra)* and *Sanjay Dutt (supra)*.

23. With respect to the second issue of 'conscious possession', it is settled law that the expression 'possession' occurring in Section 25 of the Act, means possession with the requisite mental element, i.e., 'conscious possession', however, mere custody without the awareness of the nature of such possession does not amount to any offence of the



Arms Act. The possession of any fire arm/ammunition must be a conscious possession

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32. Thus, the law is well settled that ‘conscious possession’ is a core ingredient to establish the guilt for the offences punishable under Section 25 of the Arms Act’

21. Relying on the judgment in ***Mohd Tarique Rehman (supra)***, rendered recently in the same year, the Court quashed the FIR and the subsequent proceedings on the ground that the accused was not found to be in conscious possession of the cartridge. Consequently, it was held that there was no mens rea or culpable intent attributable to the accused in the matter. For reference relevant paragraph Nos. 6 to 8 reads as under:

“6. Applying the same principles to the present case, it is evident that the Petitioner had no knowledge of the presence of the ammunition in his baggage. The doctrine of conscious possession requires not only physical possession but also awareness and intent, neither of which are established here. The material on record does not suggest any mens rea or culpable intent on the part of the Petitioner, nor does it indicate that the ammunition was carried for any unlawful purpose. The Petitioner's explanation, that the cartridge was mistakenly left in his bag by others who borrowed it, is plausible. Moreover, no firearm was recovered from the Petitioner, and there is no allegation that he attempted to use the ammunition in any manner that posed a threat to public safety. Given that criminal liability under the Arms Act is stringent and must be construed strictly, the absence of any incriminating circumstances further reinforces the conclusion that the Petitioner does not fall within the mischief sought to be prevented by the



statute. Consequently, no offence under Section 25 of the Arms Act is made out against the Petitioner.

7. Additionally, the Petitioner has no criminal antecedents, and the registration of an FIR in such circumstances would serve no legitimate purpose other than subjecting him to undue harassment and prolonged litigation. The Supreme Court has repeatedly held that criminal proceedings should not be permitted to continue when they amount to an abuse of the process of law. In the absence of any legal or factual basis to sustain the prosecution, allowing the proceedings to continue would be a manifest miscarriage of justice.

8. The Court is of the opinion that while no case for prosecution is made out, the Petitioner's lack of vigilance led to unnecessary involvement of the state machinery, which could have been avoided with greater care. Since the security agencies are required to treat all such incidents with seriousness, irrespective of intent, the initiation of criminal proceedings was a natural consequence of the lapse on the Petitioner's part. Accordingly, while the FIR is being quashed, this Court deems it appropriate to impose costs on the Petitioner, as a measure to serve the ends of justice.”

22. Even in the present case, respondent-U.T. Chandigarh has filed a custody certificate dated 04.09.2025, which records that the petitioner has undergone custody for a period of four months and twenty-one days during the post-conviction period. Importantly, it is noticed that the petitioner does not have any prior criminal history or involvement in any other criminal case.

Applying the principles laid down in the aforementioned judgments to the facts and circumstances of the present case, as

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established from the prosecution evidence, I find myself in agreement with the submissions advanced on behalf of the petitioner. In the absence of any proof of prior information, specifically from the wireless control room, or at least a formal entry thereof in the records, it cannot be presumed that the prosecution has any credible basis to allege willful disobedience of the provisions of the Arms Act, which is punishable under law.

Considering the short distance involved and the fact that the petitioner was asleep during the journey, it is not reasonable to infer that he wilfully committed an offence by carrying the weapon in an unauthorized area without requisite permission. From the entirety of the oral and documentary evidence led by the prosecution, nothing has surfaced to demonstrate that the petitioner carried 01 pistol of .32 bore and 16 live cartridges with any unlawful intent or objective.

23. Additionally, this Court finds that as per the admitted facts, petitioner was in possession of a valid arms license for the firearm he carried. According to the allegations, he had entered, during the course of the same journey, only approximately 100 yards into the area of U.T. Chandigarh, while seated on the bus from Jalandhar. It was therefore the bounden duty of the prosecution to produce documentary evidence establishing that the location, where petitioner was apprehended with the firearm actually lies beyond the territorial limits of the State of Punjab. However, the prosecution has failed to lead any notification, circular, or government order to demonstrate that the naka was established outside

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the boundaries of Punjab. In the absence of such evidence, it cannot be presumed/assumed that the area where the firearm was recovered falls beyond the jurisdiction of the State of Punjab.

24. Accordingly, applying the ratio of the Delhi High Court judgments relied upon by the petitioner, it is held that the petitioner is, in fact, innocent of the charges and is entitled to acquittal.

Therefore, the revision petition is allowed. The impugned judgments are set aside, and the petitioner is acquitted of all charges.

(SANJAY VASHISTH)
JUDGE

15th September, 2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**