**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**Cr.WP No. 77 of 2026**

**Date of decision: 28.10.2026**

Levi Yonatan ...Petitioner

Versus

State of H. P. & Anr. ...Respondents

Coram

***The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.***

***The Hon'ble Mr. Justice Bipin C. Negi, Judge.***

*Whether approved for reporting?*

**For the Appellants:** Mr. Yadvender Gupta and Mr. Bhupinder Ahuja, Advocates.

**For the Respondents**: Ms. Priyanka Chauhan, Deputy Advocate General.

**G. S. Sandhawalia, Chief Justice (Oral)**

The present petition has has been filed under Article 226 of the Constitution of India for quashing of FIR No. 113/2026, dated 15.09.2026, registered at Police Station Gaggal, District Kangra, under Sections 25(1A) and 25(1)B(a) of the Arms Act, 1959 (for short the '***Act***') alongwith all consequential proceedings emanating therefrom.

2. The petitioner is aged about 24 years and is an Israeli National and holder of Israeli Passport No. 36772424, which is valid up to 17.12.2032. He arrived in India on 15.08.2026 under a valid Tourist Visa for recreation and expedition and while catching a domestic flight from Gaggal

High Court of H.P.

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2026:HHC:47313

Airport, Kangra on 15.09.2026, a single live bullet was found inside his luggage, leading to the lodging of the FIR, for which he was arrested.

3. Vide order dated 22.09.2026 (Annexure P-2), he was granted bail by the Sessions Judge, Kangra at Dharamshala, subject to his furnishing a personal bond in the sum of Rs. 1,00,000/- (Rupees One Lakh) with one local solvent Indian surety. The Court has recorded that the custodial interrogation is complete although the investigation is in progress and he was already in police custody and is no longer required for custodial investigation.

4. The present petition, thus, has been filed stating that there was no conscious possession and mental awareness of the single bullet and an explanation has been given that the petitioner as such had been drafted into Israel Defense Forces (IDF) on 02.12.2020 and served continuously on active duty upto 01.08.2023 with his high operational rank of Staff Sergeant. He was thereafter shifted to Active Reserve Service component of the IDF (Personal ID No. 09024871) under a long-term deployment status block running from 01.05.2024 to 30.04.2029. The details of his active operational field combat stretches, including 119 days (01.11.2023 to 27.02.2024), 53 days (29.09.2024 to 20.11.2024), 46 days (22.06.2025 to 06.09.2025(

High Court of H.P.

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2026:HHC:47313

and 55 days (15.02.2026 to 10.04.2026) have been given and explanation had been given that he had hurriedly packed his daily-use effects into the same tactical bag previously used on active military fields. The single whole live cartridge marked “IMI-4 2.0” had accidentally slipped into the deep interior fabric seams and hidden folds of the lining and the petitioner was completely unaware of its presence and lacked any conscious mental knowledge (*mens rea*) and was not carrying any firearms, weapon or other destructive accessories. It has accordingly been pleaded that hurried packing prior to the recreational travel may have led to a pure accidental packing oversight, totally isolating this case from structural cross-border smuggling intents. Reliance has been placed upon the judgment of the Delhi High Court in ***Shikha Banyal v. State of NCT of Delhi [W.P. (Crl.) 1954/2011],*** dated 16.12.2021, wherein relief had been granted in an identical circumstances, on account of a single live cartridge belonging to the father-in-law of the lady, who was in Indian Army.

5. The State in its response submitted that the investigation in this case is almost complete, the mobile has been taken into possession and sent to SFSL, Mandi and RFSL, Dharamshala, for forensic examination and the final report is still awaited. The military background as such of the petitioner, by

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

itself, did not conclusively determine the circumstances in which the live cartridge was recovered and *prima facie* case is made out, and it is accordingly prayed that the petition be dismissed.

6. In the present petition, communication dated 16.09.2026 (Annexure P-3) has also been attached, which is from the Defence Attache, Embassy of Israel, New Delhi. It clarifies the fact that the petitioner is serving as an IDF reservist. The contents of the said letter would go on to show that possibility of the ammunition having been inadvertently and unintentionally retained in his personal belongings could be due to oversight. Relevant part of the said communication reads as under:-

> *"16 September 2026*
> *Subject: Official Letter of Identification and Support- Yonatan Levi 324957778*
>
> *To Whom It May Concern,*
>
> *I am writing in my official capacity regarding Yonatan Levi, an Israeli citizen and a reservist in the Israel Defense Forces (IDF), who is currently being detained in Kangra, India, following the discovery of a single round of ammunition in a bag he was carrying while traveling.*
>
> *I would like to clarify that Mr. Levi is an IDF reservist, who periodically performs active military reserve duty as part of his service in the Israel Defense Forces.*
>
> *Due to the nature of military service in Israel, soldiers and reservists routinely handle and carry military equipment and ammunition as part of their official duties. In such*

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

*circumstances, it is possible for an individual round of ammunition to inadvertently remain among personal belongings or in a bag previously used in connection with military service, without the individual being aware of its presence.*

*To the best of our knowledge and understanding of the circumstances, Mr. Levi had no criminal intent and was unaware that the round of ammunition was present in his bag. The presence of the ammunition appears to have been an inadvertent and unintentional oversight connected to his military service, rather than a deliberate attempt to carry ammunition or to violate Indian law or security regulations.*

*We fully recognize and respect the laws of India and the responsibility of the competent Indian authorities to investigate such matters. We respectfully request that Mr. Levi's status as an IDF reservist, the circumstances of his military service, and the apparently unintentional nature of this incident be taken into consideration in the handling and resolution of this matter.*

*We respectfully hope that these circumstances may assist the relevant authorities in reaching an appropriate and timely resolution, allowing Mr. Levi to continue his journey and return home safely.*

*Should any further information, clarification or official verification regarding his military service be required, we remain available to provide it.*

*Sincerely,*

*Col. Eli Toledano Eitan*
*Defence Attache*
*Embassy of Israel, New Delhi"*

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

7. The provisions of the Act as such provide that under Section 25(1A), whoever acquires, or has in his possession or carries any prohibited arms or prohibited ammunition in contravention of Section 7 of the Act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend upto ten years and shall also be liable to fine.

8. Section 7 of the Act in turns talks about possession of prohibited ammunition unless he has been specially authorised by Central Government in this behalf.

9. Section 25(1B) of the Act also refers to the possession of any fire arm or ammunition in contravention of Section 3 of the Act.

10. The Apex Court in ***Gunwantlal vs. The State of Madhya Pradesh (1972) 2 SCC 194***, has discussed the issue of element of possession and whether it is to be conscious or constructive possession, and the element of knowledge. The relevant part reads 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*

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

> *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."*

11. Similarly in ***Sanjay Dutt vs. State through C.B.I., Bombay (II) (1994) 5 SCC 410,*** the Apex Court while dealing with the Terrorist and Disruptive Activities (Prevention) Act, observed regarding the "possession", whether it is conscious or there has to be a possession with the requisite mental element and not merely custody without the awareness of the nature of such possession.

12. The principles of quashing to prevent the abuse of the process of Court and to secure the ends of justice have been laid down by the Apex Court in its celebrated judgment in ***State of Haryana & Ors. vs. Bhajan Lal & Ors., 1992 Supp (1) SCC 335.*** The power of quashing as such under Article 226 of the Constitution of India and Section 482 of the Cr.P.C. as well as the grounds on which the Court would exercise its power as such to quash proceedings, which include instances where the allegations made in the complainant, even if taken at face value

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused and also where the allegations made are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

13. The Division Bench of the Delhi High Court in similar circumstances in a ***Cr.W.P No. 1169 of 2014***, titled as ***Gaganjot Singh vs. State***, decided on 01.12.2014, which was thereafter followed in ***Crl. M.C. No. 471 of 2015***, titled as ***Sonam Chaudhary vs. State***, decided on 06.01.2026, had granted the benefit of quashing of the FIR, when the sole single live cartridge had been found in the case of a passenger travelling by Air.

14. This view was also followed by the Delhi High Court as noticed in ***Shikha Banyal's case*** *(supra)***.**

15. In another case, the High Court of Kerala at Ernakulam in ***Crl. M.C. No. 922 of 2023***, titled as ***Shantanu Yaav Rao Hire vs. State of Kerala & Anr***., a live cartridge of 0.32 calibre, which was being carried by a business man, was subject matter of consideration. The Court came to the conclusion that possession of live cartridge alone in the absence of a fire arm, indicates that there was no conscious possession of

High Court of H.P.

::: Downloaded on - 05/11/2026 11:30:48 :::CIS

2026:HHC:47313

a fire arm and resultantly granted the benefit of quashing the FIR while placing reliance in the judgment of ***Bhajanlal's case*** *(supra)*.

16. We are of the considered opinion and also keeping in view the background as such of the petitioner that he belonged to a Reserve Service of the Israeli Defence Force and there is a certificate given by the Defence Attache, Embassy of Israel, New Delhi, which has been appended, the benefit of quashing of the FIR can be extended to the petitioner to secure the ends of justice, as putting the petitioner to trial would be an abuse of the process of Court and would cause un-necessary harassment to a foreign national, who would be "Locked up Abroad".

17. Resultantly, we allow the present petition and quash the FIR No. 113/2026, dated 15.09.2026, registered at Police Station Gaggal, District Kangra, under Sections 25(1A) and 25(1B) of the Arms Act alongwith all consequential proceedings.

**(G. S. Sandhawalia)**
**Chief Justice**

**(Bipin C. Negi)**
**Judge**

**28th October, 2026**
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High Court of H.P.

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