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

+ CRL.M.C. 1794/2017

GURWANT SINGH

..... Petitioner

Through: Mr. Vikas Gahlan and Mr. Raman
Kumar, Advs.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Dr. M.P. Singh, APP for State with SI
Vipin Kumar, P.S. IGI Airport.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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06.12.2017

By this petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner has prayed for quashing of FIR No. 544/2015 under Sections 25 of the Arms Act, 1959 registered at police station IGI Airport on the complaint of Mr. Rowthu Sridhar, Coordinator DIAL, IGI Airport, New Delhi.

The aforesaid FIR was registered since one live cartridge of 9 mm bore was recovered from the bag of the petitioner during the security check. Learned counsel for the petitioner submits that petitioner was not in 'conscious possession' of the solitary live cartridge recovered from his bag.

It is further submitted that petitioner is a student. He is pursuing his higher studies in the United State of America. Petitioner had come to India. He had borrowed this bag from his uncle, who was having an arms licence. Petitioner was not aware that one live cartridge was there in the bag of his uncle, when he commenced his journey.

Learned APP, on instructions of Investigating Officer, submits that during the investigation statement of petitioner's uncle has already been recorded. Petitioner's uncle is indeed having an arms licence.

In the above facts, the plea taken by petitioner appears to be a plausible and probable plea. No material could be collected by the Investigating Officer, during the investigation, to indicate that petitioner was in 'conscious possession' of the recovered live cartridges.

It is trite law that to attract the ingredients of offence under Section 25 of the Arms Act, prosecution has to show that accused was in 'conscious possession' of the arms and ammunition. Reliance can be safely placed on Sanjay Dutt vs. State 1994 (5) SCC 410, Nurit Toker vs. State of Maharashtra 2012 BomCR (Cri) 154, Gunwantlal vs. The State of Madhya Pradesh (1972) 2 SCC 194 and Gaganjot Singh vs. State 2014 Law Suit (Del) 4968.

For the foregoing reasons, aforesaid FIR and the consequent proceedings emanating therefrom are quashed.

Petition is disposed of in the above terms.

A.K. PATHAK, J.

DECEMBER 06, 2017/ga