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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 4th July, 2018

+ CRL.M.C. 2923/2018 & Crl.M.A. 10332-33/2018

AMANDEEP SINGH HANS Petitioner

Through: Mr. Abhik Kumar & Mr.
Suryadeep Singh, Advs.

versus

STATE Respondent

Through: Mr. Arun Kumar, APP for the
State with SI Mukesh, PS IGI
Airport.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner has been a resident of New Zealand since 2010 initially having gone there on student visa and later having settled and started working for gain. Concededly, he had come to visit India and was to return with his wife by a flight taking off from IGI Airport, New Delhi on 14.04.2017. While in the process of going through the security checks, his hand baggage was found to contain two live cartridges. He was unable to show any authorization, licence or permit or give any explanation for such possession which consequently was taken as an offence punishable under Section 25 of Arms Act, 1959. FIR No. 126/2017 was registered at police station IGI Airport. By the petition at hand submitted in May, 2018 he invokes the jurisdiction of this Court under Section 482 of the Code of

Criminal Procedure, 1973 (Cr.P.C.) to pray for quashing of the said FIR and the proceedings arising therefrom, his explanation being that during the stay in Delhi his brother Karanvir Singh Hans who holds licence for Arms and Ammunition had worn his trousers and had inadvertently left two cartridges in the said apparel which had gone into his baggage for the return flight without his knowledge. Reliance is placed by him on judgments reported as *Navdeep Kaur vs. the State NCT of Delhi* 2017 (4) JCC 2244; *Golap Saikia vs. State (NCT of Delhi) & Ors.* 2017 (2) JCC 1107; *Dhanwant Kaur vs. State & Anr. Crl.M.C No. 3593/2016 decided on 04.10.2016*; *Isha Rashid vs. State & Ors.* 2017 (3) JCC 1564; *Ranvir Arora vs. State NCT of Delhi & Ors.* 2017 (3) JCC 1950 and *Francisco Del Pino Madrona vs. NCT of Delhi* 2017 (4) JCC 2646.

2. During the course of hearing on the petition at hand it came out that the petitioner was released on bail after his arrest in the aforementioned case and has since returned to New Zealand, he being represented through counsel before the criminal court which is in *seisin* of the case. It also came out that the investigation of the FIR has since been completed and a report under Section 173 Cr.P.C. has been filed in the court of Metropolitan Magistrate who has taken cognizance and issued process. It is inherent in these facts that, either the version in defence as presented through the petition at hand was not stated before the investigating police agency or the same has not been believed. The said version, in these circumstances, cannot be assumed to be the entire truth. The said version, thus, will have to be presented as a defence and substantiated by evidence by the petitioner.

Since cognizance has already been taken, it is desirable that the scrutiny of the truth or otherwise of the aforementioned version in defence be left to be adjudicated upon by the trial court in normal course.

3. No case is, thus, made out for this Court to exercise its extraordinary jurisdiction under Section 482 Cr.P.C. to interdict the proceedings in the aforementioned criminal case at this stage.

4. The petition and the pending applications are dismissed.

R.K.GAUBA, J.

JULY 04, 2018

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