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

+ **W.P.(CRL) 2988/2019**

HASIB AHMAD FAZLI

..... Petitioner

Through: Mr Aamir Choudhary, Mr Rajinder
and Mr Mandeep Yadav, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr Amit Peswani, Advocate for Ms
Nandita Rao, ASC (Crl.) for State
with SI Dinesh Kumar, PS IGI
Airport.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.10.2019

1. The petitioner has filed the present petition, *inter alia*, praying that FIR No.0451/2019 under Sections 25/54/59 of the Arms Act, 1959 registered with PS IGI Airport and all proceedings emanating therefrom, be quashed.

2. The petitioner is a citizen of Afghanistan and had entered India for medical treatment of one of his relatives. In terms of his visa, he was required to travel back within a period of ninety days from his entering India. Accordingly, the petitioner booked a flight (Kam-Airlines Flight No.RQ-916 from Delhi to Kabul) to travel to Kabul on 01.10.2019. While screening his accompanying baggage, live ammunition (two live bullets)

were detected in his baggage. The petitioner does not have valid documents for carrying the same and this led to filing of the FIR in question.

3. A status report had been filed, which indicates that the petitioner was thoroughly interrogated. He stated that the live ammunition belonged to his maternal uncle, one Sh Abdullah Rahmani from Afghanistan, who is serving with Police at Heart International Airport, Afghanistan. The petitioner claims that he had borrowed the said suitcase from his uncle and the live ammunition remained undetected in the said baggage. The petitioner claims that he was not conscious of the same.

4. The status report also indicates that the IO had contacted Mr Abdullah Rahmani and had ascertained the facts as stated by the petitioner.

5. There is no material or reason to believe that the petitioner was conscious of the two live cartridges in his baggage. The investigating officer has also found no reason why the petitioner should have carried the said ammunition.

6. This Court has, in a number of cases, held that where the accused is not aware of the live ammunition in his baggage, no offence under the Arms Act, 1959 is established. (See: ***Surender Kumar @ Surender Kumar Singh v. The State (GNCT of Delhi) & Anr.: W.P. (Crl) 2143/2019 decided on 27.09.2019; Aruna Chaudhary v. State & Ors.: W.P. (Crl.) 1975/2019 decided on 25.09.2019 and Paramdeep Singh Sran v. The State (NCT of Delhi) W.P.: (Crl) 152/2019 decided on 29.08.2019***)

7. In view of the above, the petition is allowed and FIR No. 0451/2019

under Section 25/54/59 of the Arms Act, 1959 registered with PS IGI Airport and all proceedings emanating therefrom, are quashed.

VIBHU BAKHRU, J

OCTOBER 23, 2019
MK