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

+ **W.P.(CRL) 2696/2019**

SHIVA KUMAR MALAKKANAVAR

..... Petitioner

Through Mr Varun Malik, Advocate.

versus

THE STATE & ANR

..... Respondents

Through Ms Shivani Sharma, Advocate for

Ms Richa Kapoor, ASC for State.

Mr Amit Mahajan, CGSC

SI Ketar Yadav, P.S. Domestic Airport.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.03.2020

1. The petitioner has filed the present petition, *inter alia*, praying that FIR No. 024/2019 under Section 25 of the Arms Act, 1959 registered with P.S. Domestic Airport and all proceedings emanating therefrom, be quashed.
2. The said FIR was registered as five live cartridges of .22 bore were recovered from the wallet being carried by the petitioner. The petitioner claims that the said cartridges remained in the traveller pouch (wallet) and he was not aware of the same. The petitioner claims that he holds an arms licence (License No. SPL/917/HTN issued from Hubballi, Karnataka) for a weapon of .22 caliber.
3. The status report has been filed, wherein it has been verified that the petitioner is holding a valid arms licence for a 0.22 bore weapon which is valid till 30.09.2021. It has also been verified that fifty cartridges of 0.22

bore had been purchased by the petitioner from a gun house named 'Vishprakash the Target Tools, Hubballi'. The said cartridges bore the mark of KF written on the base of each cartridge and the same corresponds to the cartridges recovered from the possession of the petitioner.

4. It is well settled that where a person is not conscious of the ammunition in his possession, an offence under Section 25 of the Arms Act, 1959 would not be made out. (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***)

5. Given the circumstances of this case, this Court finds no reason to disbelieve the petitioner's statement that he was not aware that the cartridges had remained in his travelling pouch (wallet).

6. The learned counsel appearing for the respondent, on instructions, does not oppose for quashing of the FIR in question.

7. In view of the above, the present petition is allowed and the FIR in question (FIR no. 024/2019 under Section 25 of the Arms Act, 1959 registered with P.S. Domestic Airport) and all proceedings emanating therefrom, are quashed.

VIBHU BAKHRU, J

MARCH 12, 2020

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