ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Revision No. 78 of 2024

Sheraz Mehmood

VS.

The State

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	29.1.2025	**Mr. Sajid Abdullah Sraa and Ehsan Ullah Sial, Advocates for the Petitioner.** **Rana Hassan Abbas, ADPP.** **Mr. Dilshan Farooq, A.S.I., RDU, CIA.**

1. Through the instant Petition, the Petitioner has assailed the Order dated 27.7.2023 **("Impugned Order")** passed by the learned Additional Sessions Judge-V, Islamabad-West **("Additional Sessions Judge")** whereby the Petitioner's Application for *superdari* of Vehicle [White colored Honda Civic, Model 2018 bearing Registration No. AHZ-562, Chasis No. NFBFC666JR035677 and Engine No. RI8Z12932252 **("Subject Vehicle")]** has been dismissed.

2. The brief facts as per the Memo of Petition are that the Petitioner, alleged to be the owner of the Subject Vehicle, handed over the Subject Vehicle to one Syed Zakir Hussain Kazmi who is running the business of rent-a-car namely Syed Car Rent in Bharakahu, Islamabad. The Subject Vehicle was confiscated by the local police of Police Station Golra Shareef, Islamabad in FIR No. 22/2020 dated 15.1.2020, for offences under Sections 186, 324, 353, Pakistan Penal Code, 1868

("P.P.C."); read with Sections 9-C of the Control of Narcotic Substances Act, 1997 **("CNSA, 1997")**; read with Sections 3 and 4 of the Prohibition (Enforcement of Hadd) Order, 1979; and read with Sections 13 and 20 of the Pakistan Arms Ordinance, 1965. The Petitioner approached the learned Additional Sessions Judge, seeking *superdari* of the Subject Vehicle. However, the request was declined vide the Impugned Order. Hence, the present Revision Petition.

3. The learned counsel for the Petitioner submits that the Petitioner is the real owner of the Subject Vehicle and has no knowledge about its usage in any offence as he had handed over the Subject Vehicle to one Syed Zakir Hussain Kazmi on rent through rental agreement and was receiving monthly rent from the said person; and that Syed Zakir Hussain Kazmi handed over the Subject Vehicle to the accused persons without intimation/knowledge/consent of the Petitioner; that the Petitioner is the lawful owner of the Subject Vehicle and as such the learned Additional Sessions Judge erred in declining his application for *superdari*.

4. The learned ADPP has drawn the Court's attention to Section 32(2), CNSA, 1997 according to which *inter alia* any vehicle or other conveyance used in carrying the drugs and substances mentioned in the said provision are liable to confiscation. He has also relied upon proviso to Section 74, CNSA, 1997 whereby any conveyance used *inter alia* for transporting or for commission of any offence under CNSA, 1997 shall not be

given on custody to the accused or any of his associate or relative or any private individual till the conclusion of the case except as provided in the second proviso to Section 32(2), CNSA, 1997.

5. I have heard the learned counsel for the Petitioner as well the learned ADPP at length and have also perused the available record.

6. From perusal of the record it is evident that a substantial quantity of illicit substances, namely 1550 grams of Heroin, 6225 grams of Charas, 35 grams of Ice, 25 bottles of liquor, as well as firearms (two pistols and one rifle), were recovered from the Subject Vehicle. Additionally, the accused individuals boarded in the Subject Vehicle over-speeded to run away from the spot and in the way hit the police officials with the Subject Vehicle, who were trying to stop the Subject Vehicle. Resultantly, Inam Ullah, S.I. and Waseem Haider, H.C. of Islamabad Police got serious injuries including fracture of leg. All the three accused in the case fled away from the scene.

7. The use of the Subject Vehicle in the commission of the aforementioned heinous offences has been explicitly admitted and is not disputed by the Petitioner, who only contends a lack of knowledge regarding the criminal activities associated with the vehicle, claiming to have rented it out.

8. In view of the above and in light of the bar imposed by Sections 32 and 74 of CNSA, 1997, the request for the *superdari* of the Subject Vehicle until the conclusion of the trial is not acceptable as

the legal provisions outlined under the CNSA, 1997 preclude the return of property used in the commission of narcotic offences during the pendency of trial, and if offence is proved the said vehicle is to be confiscated in favor of State. In given circumstances when trial of accused has not been completed and the Subject Vehicle is still to be produced before the court for evidence and there is apprehension of change or misappropriation of the Subject Vehicle to frustrate prosecution evidence.

9. In view of the foregoing, the learned counsel for the Petitioner has failed to show any error or any other infirmity in the Impugned Order. Therefore, the instant Revision Petition stands **dismissed.**

(MUHAMMAD AZAM KHAN)
JUDGE

Adnan