JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CRIMINAL APPEAL NO. 92 OF 2025

MUHAMMAD RIAZ
Vs.
THE STATE.

Appellant by : Mr. Shahbaz Shah, Advocate.

Respondent by : Rana Zulfiqar Ali, SPP ANF.
Syed Raza Ali Shah S.I, ANF.

Date of Hearing : 24.04.2025.

MUHAMMAD AZAM KHAN, J.:- Through the instant appeal filed under Section 48(1) of Control of Narcotics Substance Act, 1997 **("CNSA"),** the Appellant [Muhammad Riaz] has challenged the Order dated 07.01.2025 ("**Impugned Order**") passed by learned Judge Special Court (CNS), Islamabad whereby his application for *superdari* of Toyota Corolla bearing Registration No. LED-809 ("**Subject Vehicle**"), Model 2015, Engine No.Z257058, Chassis No.NZE170R4031613, seized by the ANF in case FIR No.166 of 2024 under Sections 9(1)3(e), 9(1)5(f) read with Section 15 of CNSA, registered at P.S. ANF RD North, Rawalpindi **("Subject F.I.R")**, was dismissed.

2. The brief facts of the case as per the contents of the F.I.R, are that on 21.08.2024, complainant Muhammad Bashir Khan Inspector was present in the P.S ANF RD North Rawalpindi when spy came there and informed him that one Muhammad Nawaz, along with his wife boarded in black color vehicle bearing registration No.LEH-7232 will pass near M2 Toll Plaza Motorway Islamabad in connection with the supply of drugs from Peshawar to Faisalabad. On receipt of information, the ANF Officials reached at M2 Toll Plaza Motorway Islamabad and started surveillance of vehicles coming from the Peshawar side. In the meanwhile, a vehicle bearing registration No.LEH-7232 came from the Peshawar side, which was stopped by the police party. The person sitting on the driving seat disclosed his name as Muhammad Nawaz while the woman sitting on the rear seat disclosed her name as Tahira Parveen. On search of the trunk of the vehicle, total Charas weighing 108 kilograms and Opium weighing 96 kilograms was recovered. From the secret cavity

of the vehicle, further Opium weighing 27.600 kilograms was recovered. The recovered contraband was taken into possession by ANF Officials through recovery memo. The Vehicle bearing registration No.LEH-7232 was also taken into possession by the police. A criminal case FIR No.166 of 2024 under Sections 9(1)3(e), 9(1)5(f) read with Section 15 of CNSA, was registered at P.S. ANF RD North, Rawalpindi, Islamabad. The Appellant applied for *superdari* of the Subject Vehicle, however, his application for *superdari* was dismissed vide the Impugned Order dated 07.01.2025, hence, the present appeal.

3. The learned counsel for the Appellant argued that a vehicle bearing registration No.LED-809/15, Model 2015, Engine No.Z257058, and Chassis No.NZE170R4031613 was snatched from the Appellant's brother, who was operating it as a taxi to earn a livelihood; that the incident occurred on 07.05.2024, leading to the registration of F.I.R No.163/24 under Sections 392/411 PPC; that the Appellant is the lawful owner of the vehicle's vide a purchase agreement dated 19.03.2024, however, due to procedural delays, the formal transfer of ownership was pending at the time when the vehicle was subsequently snatched from him; that the learned trial court failed to appreciate that the Appellant is a *bonafide* purchaser having no knowledge or connection with the narcotic business; that the learned trial court erred in law by not considering that the Appellant has legitimate documentary proof of purchase of vehicle in question; that the impugned order causes severe financial hardship to the Appellant as the vehicle represents a significant in investment and source of livelihood; that section 32 of the CNSA does not deprive the Appellant of his right to seek *superdari* of the vehicle; that the dismissal of the application for *superdari* is not only erroneous but also constitutes a violation of the principles of natural justice; that the Appellant was not given a fair opportunity to present his case, nor were the circumstances of his ownership duly considered by the learned Judge; that the retention of vehicle violates fundamental principle of criminal jurisprudence that no person shall be punished for the crime of others. He prayed for the acceptance of instant appeal, setting aside of the impugned orders and for releasing the vehicle bearing registration No. LED-809-15 to the Appellant.

4. On the other hand, the learned SPP ANF has opposed the arguments of the learned counsel for the Appellant and prayed for its dismissal.

5. We have heard the learned counsels for the Appellant as well as learned SPP ANF and have also perused the available record.

6. Succinctly, the vehicle sought on *superdari* was taken into possession from the accused persons namely Muhammad Nawaz and Mst. Tahira Parveen, by the ANF and on search, huge quantity of narcotics was recovered from the secret cavity of the vehicle in question. The production of the vehicle during trial is essential being an important piece of evidence to prove the case of prosecution against the accused facing trial. The Appellant claims himself to be the purchaser of the vehicle from Ali Akhtar who is the registered owner of the vehicle and the vehicle in question was snatched from his brother as he was plying the same as Taxi. In this regard, an F.I.R has also been registered at P.S Chakri, District Rawalpindi. The Appellant is not the registered owner and is admittedly not the last possessor of the same. Moreover, the prosecution evidence is yet to be recorded, and the Subject Vehicle, being case property, must be produced during trial as narcotics were allegedly recovered from its secret cavities, the exhibition of which constitutes a crucial piece of evidence.

7. Consequently, in the circumstances, the vehicle in question cannot be given on *superdari* to anyone until the same is produced in evidence. Resultantly, we are of the view that the instant appeal is devoid of any merits which is accordingly **dismissed**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

(MUHAMMAD AZAM KHAN)
JUDGE

SAJID