JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CRIMINAL MISCELLANEOUS NO. 664-M OF 2025

CHAUDHARY ASIF ROHTASIA
Vs.
SHO P.S NOON, ISLAMABAD AND ANOTHER.

Petitioner by : Mr. Basharat Ullah Khan, Advocate.

Respondents by : Rana Hassan Abbas, ADPP.
Mr. Imran, A.S.I, Car Cell, Islamabad.

Date of Hearing : 15.04.2025

MUHAMMAD AZAM KHAN, J.:- Through the instant Petition filed under Section 561-A Cr.P.C., the Petitioner [Chaudhary Arif Rohtasia] has challenged the Order dated 26.02.2025 ("**Impugned Order I**") passed by learned Judicial Magistrate Section 30, Islamabad-West and Order dated 08.03.2025 ("**Impugned Order II**") passed by the learned Additional Sessions Judge, West-Islamabad, whereby his Application for *superdari* of silver colored Toyota Corolla, Model 2019 bearing Registration No. LED-19-4290, Engine No.Z-519943, Chassis No. NZE170R4146474, ("**Subject Vehicle**") and the Petitioner's revision Petition against the Impugned Order I have been dismissed, respectively.

2. The necessary facts, as per the contents of the F.I.R, are that on 11.11.2024, the Subject Vehicle driven by one Imran Shahzad (driver of the Petitioner) was stopped by the officials of P.S Noon and was taken into custody on the suspicion of tempering in engine number and chassis number. The Subject Vehicle in question was subjected to forensic and vide Lab Report No. 4038/24, chassis numbers were found cut and weld while engine numbers were found deep filling. In the meanwhile, a criminal case F.I.R No.819/24 dated 15.12.2024 under Sections 420, 468, and 471, Pakistan Penal Code, 1860 **("PPC")** was registered at P.S. Noon, Islamabad. The Petitioner applied for *superdari* of the Subject Vehicle, however, his application for *superdari* was dismissed vide the Impugned Order I and his Revision Petition assailing the Impugned Order I also met the same fate vide Impugned Order II, hence, the present Petition.

3. The learned counsel for the Petitioner argued that the Impugned Orders are contrary to the facts and law, and thus unsustainable; that the Petitioner purchased the Subject Vehicle for Rs. 3,200,000/- through a reputed dealer, Raja Nazir Bashir of Pak Motors, from Ayaz Khan. The Subject Vehicle had previously been registered in the names of Riaz Ahmed Maimon, Muhammad Ismail Bajwa, and Muhammad Tariq before being bought by the Petitioner, who had it lawfully transferred to his name on 18.02.2023. The Subject Vehicle was taken from the Petitioner's driver despite there being no rival claimant or registered case against it. A report from FSL Islamabad states the engine number is indecipherable due to deep filling. The Petitioner, a *bona fide* purchaser with all relevant documents, contends that continued police custody is unjustified and depreciates the vehicle's value. He prayed for the Petition to be accepted, the Impugned Orders set aside, and the vehicle released or given on *superdari* to the Petitioner.

4. On the other hand, the learned State Counsel has opposed the arguments of the learned counsel for the Petitioner and prayed for dismissal of the instant Petition.

5. I have heard the learned counsel for the Petitioner as well as the learned State Counsel and have also perused the available record.

6. The learned counsel for the Petitioner contended that the Petitioner is a *bona fide* purchaser and absolute owner of the Subject Vehicle as the Petitioner has purchased the same from one Ayaz Khan and at the time of purchase of the Subject Vehicle, it had chassis No. NZE170R4146474 and engine No. Z519943 and the Petitioner has not tampered with the chassis number or engine number of the Subject Vehicle in question. In this respect, a copy of the Receipt issued by Pak Motors & Property Advisor is available on file and the said Receipt is also having the same chassis number and engine number. The Subject Vehicle is neither reported to be stolen property nor is the same involved in any criminal case. There is no rival claimant of the vehicle and keeping the Subject Vehicle in the police station will serve no purpose rather the vehicle will deteriorate and will be exposed to natural decay. A learned Single Bench of the Peshawar High Court in a similar case i.e *Lal Zada versus the State*, (**2011 YLR 377)** while allowing *superdari* of the vehicle held that :-

> *"7. It is established on the record that the vehicle in question has no criminal history as there is nothing on the record to reflect that the same was either a stolen property*

or was ever used in the commission of any offence. No rival claimant of the vehicle in question has come forward to claim its ownership, so when this being the situation a vehicle of the value of more than a million cannot be left in the custody of the police, who surely will be finis-utilizing the same. Only allegations of having a bogus registration or a tampered chassis number, custody of the vehicle to a person claiming himself to be the bona fide purchaser which prima facie on the record is also established, cannot be refused to him. So in this view of the matter, this Court having no other option but to allow this petition and to order the custody/superdari of the vehicle to the petitioner till decision of the case, on furnishing surety bonds in the sum of Rs.14,00,000 with two sureties each in the like amount to the satisfaction of the Illaqa/Deputy Judicial Magistrate. Needless to say that the sureties should be local and men of means. The vehicle in question should be handed over to the petitioner according to the inventory made by the local police at the time of taking its custody."

7. For what has been stated above, this Petition is **allowed** and it is ordered that the Subject Vehicle be handed over to the Petitioner on *superdari* subject to furnishing surety bonds in the sum of Rs. 400,000/- to the satisfaction of the learned Trial Court with the direction to the Petitioner not to sell or transfer the Subject Vehicle till the decision in case F.I.R No. 819/24 dated 15.12.2024 registered under Sections 420, 468, and 471, PPC with P.S. Noon, Islamabad, and he will produce the same as and when required by the competent Court. However, this Order will not prejudice the rights of a rival claimant, if any, with a better title.

(MUHAMMAD AZAM KHAN)
JUDGE

SAJID