**JUDGMENT SHEET**
**IN THE ISLAMABAD HIGH COURT,**
**ISLAMABAD**

**CRIMINAL REVISION NO. 99 OF 2025**

**AHMAD KHAN**
**Vs.**
**STATE ETC.**

**Petitioner by : Mr. Musaddiq Aziz, Advocate.**

**Respondents by : Rana Hassan Abbas, ADPP.**
**Mr. Fakhar Abbas, Inspector, P.S Sumbal, Islamabad.**

**Date of Hearing : 29.07.2025**

**MUHAMMAD AZAM KHAN, J.:-**

1. Through the instant Criminal Revision Petition filed under Sections 437 & 439 Cr.P.C., the Petitioner [Ahmad Khan] has challenged the Order dated 09.07.2025 **("Impugned Order")** passed by the learned Additional Sessions Judge, Islamabad-West, whereby his Application for *superdari* of a black-colored Toyota Fortuner, Model 2022, bearing Registration No. AYA-39 (ICT), Engine No. 1GD5109263, Chassis No. GUN156R-1098023 **("Subject Vehicle")** has been dismissed.

2. The necessary facts, as per the contents of the F.I.R., are that on 02.06.2025, at about 05:00 pm, the Complainant, namely Mst. Farzana Yousaf, along with her children, namely Syed Yawar Yousaf and Sana Yousaf, were present at her house No. 35, Street No. 81, Sector G-13/1, when a boy entered her house and fired directly at Sana Yousaf, who died. Hence, a criminal case, F.I.R. No. 370/25 dated 02.06.2025, under Section 302, Pakistan Penal Code, 1860 **("PPC")**, was registered at P.S. Sumbal, Islamabad. During the investigation, it transpired that the accused used the Subject Vehicle for reaching the place of occurrence. The Petitioner applied for *superdari* of the Subject Vehicle, however, his application for *superdari* was dismissed vide the Impugned Order, hence, the present Petition.

3. The learned counsel for the Petitioner argued that the Petitioner is the lawful and registered owner of the Subject Vehicle; that the Petitioner occasionally offers his vehicle for rental, sale, and purchase services through online platforms, including WhatsApp groups and Facebook posts, while ensuring that all transactions are duly documented through proper rental or sale agreements; that the Subject Vehicle was being driven by the Petitioner's employee/driver, namely Wakeel, when it was rented by an individual in the ordinary course of the Petitioner's business; that, unfortunately, the said individual, while in possession of the Subject Vehicle, became involved in the commission of a murder case; that the incident took place without any knowledge, connivance, or involvement of either the Petitioner or his driver; that soon after the incident, the Petitioner and his driver, Wakeel, fully cooperated with the police, recorded their statements, and provided all necessary information during the investigation; that the process of transferring the vehicle and issuing the registration card was already underway, and all legal formalities had been duly completed when the unfortunate incident occurred. Lastly, he prayed for acceptance of the Petition, setting aside of the Impugned Order, and release of the Subject Vehicle in favour of the Petitioner on *superdari*.

4. On the other hand, the learned ADPP appearing on behalf of the State vehemently opposed the arguments advanced by the learned counsel for the Petitioner. He contended that, as per the CCTV footage, the accused involved in the occurrence arrived at the scene of the incident in the Subject Vehicle; therefore, the said vehicle constitutes a crucial piece of evidence for the trial. He further submitted that the report under Section 173 Cr.P.C. has not yet been submitted, as the same is still under process; hence, at this stage, releasing the Subject Vehicle to the Petitioner on *superdari* would be prejudicial to the prosecution's case. In conclusion, he prayed for the dismissal of the instant Petition.

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

6. Having carefully examined the submissions and record, it is clear that there is no material on record implicating the Petitioner or his employee in the commission of the offence. The Petitioner's assertions regarding the rental

transaction are supported by the fact that he cooperated fully with the investigating authorities. The photocopy of the receipt dated 30.05.2025, issued by the Excise & Taxation Department, clearly shows that the Subject Vehicle has been transferred in the name of the Petitioner, for which the Petitioner has paid all the requisite fees.

7. The law on the release of a vehicle or property on *superdari*, even if connected to an offence, is well settled. Courts are empowered to release such property on furnishing a solvent surety and subject to conditions ensuring availability for investigation and trial. This principle seeks to balance the rights of the lawful owner against the need to preserve evidence.

8. In the present case, no convincing reason has been shown by the prosecution to justify continued retention of the vehicle when the Petitioner has shown willingness to cooperate and subject the vehicle to inspection and further investigation. The possibility of tampering with evidence is minimal, given that the vehicle has already been in possession of the police since the incident and that the Petitioner will remain under legal obligation not to dispose of the Subject Vehicle. Furthermore, there is no rival claimant of the Subject 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."*

Therefore, keeping the Subject Vehicle indefinitely with the police would cause undue hardship to the Petitioner, who operates a business involving such vehicles, without any fault on his part.

9. 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. 1,000,000/- with one surety 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 the case F.I.R No. 370/25 dated 02.06.2025 under Section 302, PPC, registered with P.S. Sumbal, 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