ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 2864 of 2025

Malik Zahid

v.

The State and another.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	25.07.2025	Mr. Sufiyan Akram Cheema, Advocate for the petitioner. Ch. Zulqarnain, State Counsel with Muhammad Asif, ASI.

MUHAMMAD ASIF, J: Through this petition, the petitioner impugns the order dated 12.07.2025 (**"Impugned Order"**) passed by the Learned Additional Sessions Judge, /Judge Special Court (CNSA), Islamabad-West (**"Respondent No. 2"**), whereby the application filed by the petitioner for release of vehicle Suzuki Mehran, Registration No. AHA-241, Chasis No. SB308PF0125572 Engine No. PKB717066 and Model 2018, was dismissed.

2. The learned counsel for the petitioner argued that the Impugned Order is against the law and facts of the case and is not sustainable in the eye of law; that the petitioner is bonafide owner of the above said vehicle and has preferential rights; that the Respondent No. 2 has misconstrued the documents

as well as has ignored appreciation of evidence produced by the petitioner which has caused the great loss to the petitioner while not handing over the subject vehicle to him; that the vehicle is in the name of the petitioner and there is no dispute regarding the ownership and the same is not required for the purpose of further inquiry, therefore, the same may be released on Superdari.

3. On the other hand, learned State Counsel repelled the above submissions and argued that the vehicle in question was used in the alleged crime and confiscated as a case property. No irregularity or illegality has been committed by the Court below while passing the Impugned Order, therefore, the instant petition is liable to be dismissed.

4. Arguments heard, record perused.

5. Perusal of the record reveals that on 26.04.2024 at about 09:55 pm in the area of Sector H-11, Islamabad one Grey Suzuki Mehran bearing Registration No. AHA-241, Model 2018 turned towards market, on suspicion the police party stopped the vehicle, wherein the petitioner was apprehended by the local police of Police Station Shalimar, Islamabad, and upon search, ICE 54 grams and 10 pills were allegedly recovered from him, leading to the registration of FIR No. 364/24, dated 26.04.2024, under Section 9(2) 3 of the Control of Narcotic Substances Act, 1997, at P.S. Shalimar, Islamabad and the vehicle in question was seized by the police as case property.

6. Record further reveals that the petitioner asserts ownership of Vehicle Suzuki Mehran, Registration No. AHA-241, Chasis No. SB308PF0125572 Engine No. PKB717066 and Model 2018. At present, the vehicle in question is the case property of FIR No. 364/24, dated 26.04.2024, under Section 9(2) 3 of the Control of Narcotic Substances Act, 1997, at P.S. Shalimar, Islamabad

7. In the present matter, the petitioner is the lawful owner of the vehicle in question. As per the contents of FIR No. 364/2024, the recovery of the alleged narcotic substance was effected from the personal possession of the petitioner, and not from the vehicle itself. Although the said vehicle was allegedly used in the commission of the offence, such usage does not, in and of itself, bar the petitioner from seeking and obtaining possession thereof, particularly in light of his undisputed ownership.

8. The Hon'ble Apex Court in the case of *Amjad Ali Khan v. The State and others* **(PLD 2020 SC 299)**, has held that:-

> "The first and the foremost condition is that the petitioner must be the "owner" of the vehicle. "Owner" is defined in section 2(24) of MVO to mean a person in whose name the motor vehicle is registered and includes the transferee. Transferee must be duly registered under MVO."

9. In the light of above case law the primary condition for release of the vehicle is that the

petitioner must be the lawful "owner" thereof. As defined under Section 2(24) of the Motor Vehicles Ordinance (MVO), "owner" refers to the person in whose name the motor vehicle is registered and includes a transferee, provided such transferee is registered in accordance with the provisions of the MVO. As per the registration documents pertaining to the vehicle, the petitioner is the lawful and registered owner of the vehicle in question. In view of the principles laid down in the aforementioned case law, the petitioner is legally entitled to retain or reclaim physical possession of the said vehicle.

10. In view of the foregoing, the instant petition for superdari of above mentioned vehicle is allowed subject to furnishing solvent surety of Rs.500,000/- to the satisfaction of the learned trial Court with direction to the petitioner to produce the same as and when directed by the learned trial Court.

(MUHAMMAD ASIF)
JUDGE

//Kamran//*