# ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

**Crl. Misc. No.2186/2025**

Muhammad Tariq

Versus

The State, etc.

| S. No. of order/ proceedings | Date of order/ Proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|---|---|---|
| | 10.01.2026 | M/S Abdul Majid & Duha Tanveer Advocates for the petitioner.<br>Hafiz Attihullah, State counsel.<br>Mr. Kaleem Khan. SI. |

**KHADIM HUSSAIN SOOMRO J:-** Through this Crl. Misc. The petitioner has impugned the orders dated 18.11.2025 and 29.10.2025 passed by the Courts below, whereby an application for superdari of vehicle No. AEW-410 was dismissed.

2. Learned counsel for the petitioner submits that the petitioner is the lawful owner of the vehicle bearing registration No. AEW-410, Model 2014, Chassis NO. LA600S-0139177, Engine No. KFF776876, which was taken into custody by the polilce alongwith other belongings of the petitioner in connection with Crime No. 675, dated 26.09.2025, u/s 9(1)6d9(2)3 CNSA, read with Section 13/20/65 A.O, PS Tarnol, Islamabad; that there is no other claimant of the vehicle in question although both the Courts below dismissed the application for superdari of the vehicle; that the impugned order is illegal, void, perverse and a non-speaking order which is violation of Section 26-A of the General Clauses Act.

3. Learned State counsel submits that the recovered vehicle is the case property which is required by the learned trial Court during the trial; that in case the case property has been changed or tampered with, the prosecution will fail to prove its case beyond

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a reasonable doubt. Hence, the petitioner is not entitled to the superdari of the vehicle.

4. I have heard the arguments of learned counsel for the parties and have perused the material available on record with their able assistance.

5. Admittedly, the petitioner is the registered and lawful owner of the vehicle bearing registration No. AEW-410, Model 2014, Chassis No. LA600S-0139177, Engine No. KFF776876, which was taken into custody by the police in connection with the aforementioned case. It is an admitted position that there is no rival claimant to the said vehicle either before the learned Trial Court or before this Court. The ownership of the petitioner has not been disputed by the prosecution.

6. A bare perusal of Section 516-A Cr.P.C. makes it manifestly clear that the Court is vested with ample discretionary powers to pass appropriate orders regarding the interim custody of property pending the conclusion of the trial. The object of this provision is to regulate custody of the case property in a manner that safeguards its identity while simultaneously preventing unnecessary loss, damage, or deterioration. It is a matter of common knowledge that when vehicles remain parked in open spaces under official custody for prolonged periods, their mechanical condition deteriorates and their value depreciates substantially. Therefore, retention of such property in police custody for an indefinite period, without any compelling justification, defeats the very purpose of preservation.

7. It is by now a settled principle of law that release of a vehicle on superdari is merely an interim arrangement and does not in any manner prejudice the case of the prosecution nor does it amount to acquittal or confer any undue advantage upon the accused or owner. The purpose of superdari is to ensure proper preservation of property while entrusting its custody to the lawful owner, subject to furnishing adequate surety and undertaking to produce the same before the Court as and when required. The

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identity and evidentiary value of the vehicle can be sufficiently preserved through proper documentation, photographs, and surety bonds.

8. Furthermore, the continued retention of the vehicle in official custody, despite the petitioner being its undisputed owner, would amount to unnecessary deprivation of property. Articles 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973 guarantee the fundamental right of every citizen to acquire, hold, and protect property, and such right cannot be curtailed except strictly in accordance with law. In the absence of any legal impediment, confiscation proceedings, or competing claim, the petitioner cannot be deprived of interim custody of his vehicle for an indefinite period.

9. In view of the foregoing reasons, this Court is of the considered opinion that the learned Courts below failed to exercise their jurisdiction in accordance with law and did not properly appreciate the scope and object of Section 516-A Cr.P.C. Consequently, the instant Crl. Misc. application is allowed, and the impugned orders dated 29.10.2025 and 18.11.2025 are hereby set aside. The subject vehicle bearing registration No. AEW-410 shall be released to the petitioner on superdari, subject to furnishing surety equivalent to its market value to the satisfaction of the learned Trial Court. The petitioner shall neither alienate nor alter the vehicle in any manner and shall produce the same before the learned Trial Court as and when directed, failing which appropriate legal action shall follow.

**(KHADIM HUSSAIN SOOMRO)**
JUDGE

**S.Akhtar**

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