

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN, SIBI BENCH AT
QUETTA.

Criminal Revision Petition No(s).39 of 2025
(CC # 100207600779)

Abdul Salam Kakar
Vs.
The State

Date of hearing: 28-11-2025 Announced on: 29.11.2025

Petitioner by: M/s. Jalil Afghan & Rehmatullah Barrech,
Advocates.

State by: Mr. Jameel Akhtar Gajani, Addl. PG.

ORDER

Sardar Ahmad Haleemi, J. This Criminal Revision Petition is directed against the order dated 22nd November, 2023 (hereinafter "**the impugned order**") passed by the learned Sessions Judge Sibi (hereinafter "**the trial Court**") whereby, an application under Section 517-A Cr.P.C for handing over Toyota/Hilux Vigo, bearing Registration No. UE-366, Chassis No. MROFZ29G-001564853, Engine No.IKD-7690397 ("**vehicle in question**"), on *superdari* in FIR No.17/2022 under sections 320, 170, 279, 337-G, 420, 468, 471, 34 PPC was rejected.

2. As per contents of FIR No.09/2021, complainant Abdul Miran Khan Naib Risaldar Bakhtair abad Domki reported the incident to the effect, that on 23rd May 2022 at about 5:30 p.m. the vehicle in question driven by accused Abdul Khaliq fell down from the road due to over speed and overtake near Shaheed Sawali Check-Post at National Highway; he along with other officials reached at the place

of occurrence and found four persons in uniform of forces; out of which two had Walki sets and rifles and one had 9-mm pistol. On query, the driver showed a forged service card and introduced himself as an employee of the Military Engineering Services, while disclosing his companion's names as Muhammad Asif, Zaitoon Khan, Muhammad Fahad and Aaseen Khan. One of his compliance died at the spot, and Zaitoon Khan, Muhammad Fahad and Aaseen Khan sustained injuries. In search of the vehicle in question, seventy (70) packets of Charas were recovered.

3. After a full-fledged trial, the accused Abdul Khaliq was convicted and sentenced, while other accused persons were acquitted vide judgment dated 30th November, 2022. The trial court also confiscated the vehicle in question, including the case properties.

4. Thereafter, the convict Abdul Khaliq filed Criminal Appeal No(s).129/2022 against his conviction before this court, which was allowed vide judgment dated 03rd March, 2023.

5. Initially, Accused Abdul Khaliq & petitioner filed Criminal Misc. Application No(s). 157 & 156 of 2023 in Criminal Appeal No(s).129/2022, which was dismissed as not pressed vide order dated 19.04.2023.

6. Pursuant to this court's above order, the petitioner filed an application under section 517-A Cr. P.C. for the release of the vehicle in question on *superdari* before the trial Court, which was declined vide impugned order dated 22nd November, 2023, hence this Criminal Revision Petition.

7. Learned counsel for the petitioner contended that the impugned order passed by the trial Court is contrary to law; that the petitioner is owner of the vehicle in question; that the trial Court without considering the real facts in respect of vehicle in question, in a haphazard manner rejected the application; that impugned order of the trial court suffers from illegalities and irregularities and lastly prayed that impugned order may be set aside and vehicle in question may be released on *superdari*.

8. Learned Additional Prosecutor General controverted the contentions of learned counsel for the petitioner and supported the impugned order.

9. Heard the arguments of learned counsel for the parties and gone through the record with their able assistance.

10. Perusal of record reveals that the accused persons charged in FIR No.17/2022 have been acquitted in the main case vide Judgments 30th November, 2022 & 03rd March, 2023 respectively. It appears from the record that this court dismissed the petitioner's application for *superdari* of the vehicle in question on the ground that the petitioner would file an application under section 517-A, Cr.P.C., before the trial Court vide order dated 19th March 2023. Consequently, the petitioner filed an application under section 517-A, Cr.P.C. before the trial Court, which was rejected on the account of jurisdiction vide order dated 22nd November 2023, in the following manner:

Whereas, it is apparent from the record that in the abovementioned case, this court, vide judgment dated 30th November, 2022, convicted the

accused Abdul Khaliq and confiscated the case property i.e. Vigo black in colour, bearing No.KC-5 and 02 Walkie Talkies sets, in favour of the State; and the applicant filed instant application for Superdagi of the confiscated vehicle with averments that accused Abdul Khaliq preferred an appeal before the Honorable High Court of Balochistan, Quetta against the judgment passed by this court; and the Honorable High Court of Balochistan, after having heard, vide judgment dated 03.03.2023, acquitted the accused Abdul Khaliq, from the charge; while the case property order was not challenged by the applicant regarding confiscation of vehicle. Copy of the order dated 19.04.2023 further reveals that applicant withdrew his application regarding handing over the vehicle, which he placed before the Honorable High Court of Balochistan. Sibi Bench.

Therefore, in the light of above discussion, this court have no jurisdiction to allow the instant miscellaneous application under section 517-A, filed by the applicant for Superdagi of Toyota/Hilux Vigo, confiscated in case FIR No.17/2022 of Levies Station, Bakhtiarabad.

11. There is no dispute regarding ownership of the petitioner in respect of the vehicle in question; therefore, retention of the vehicle in question in police custody for an indefinite period would mean nothing but deterioration and damage thereto, which cannot be allowed under any provision of law. The attached document to the

petition would prima facie shows the petitioner as the owner of the vehicle in question, at least in the absence of any rival claimant.

For the above reasons, Criminal Revision Petition No(s). 39 of 2025 is partly allowed; consequently, the order dated 22nd November, 2023, passed by the learned Sessions Judge, Sibi, is hereby set aside. The petitioner's application under section 517-A, Cr.P.C., is deemed to be pending, and the trial court is directed to verify the documents and the vehicle from the concerned quarters and, after hearing the parties, decide the application strictly in accordance with law.

Announced in open court:
Quetta, on 29th November, 2025

Judge.