

JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT

Criminal Appeal No.395/2019

Raja Shoukat Ali

versus

The State

Appellant by: Raja Shoukat Ali, Advocate.
State by: Mr. Mubeenullah, State Counsel.
Khalid, S.I., P.S. Ramna, Islamabad.
Date of Decision: 13.02.2020.

MOHSIN AKHTAR KAYANI, J: Through the instant criminal appeal, the appellant has called in question the order of the learned Additional Sessions Judge-IX (West), Islamabad, dated 11.11.2019, whereby application filed by the appellant for *superdari* of vehicle (DZ-054) has been dismissed.

2. Brief facts referred in the instant appeal are that the appellant being owner of vehicle i.e. Suzuki Mehran, Engine No.PKB594734, Chassis No.SB308PK01133263, bearing registration No.DZ-054, rented it out to one Naveed Ashraf, who was arrested by the police in case FIR No.363, dated 13.10.2019, under Section 9-C CNSA, P.S. Ramna, Islamabad and the said vehicle has been detained. Accordingly, the appellant moved a petition under Section 516-A Cr.P.C. for *superdari* of the vehicle, which was dismissed vide impugned order dated 11.11.2019. Hence, the instant criminal appeal.

3. Learned counsel for appellant contends that the impugned order is illegal, unlawful and against the facts as the learned trial Court has not considered the fact that there is no rival claimant of the said vehicle; that the learned trial Court has not applied its mind judiciously while passing the impugned order; that the appellant assured that he would be responsible and under obligation to produce the said vehicle as and when required if the same is given to the appellant on

superdari, therefore, passing of the impugned order may be set-aside and *superdari* of the said vehicle may be given to the appellant.

4. Conversely, learned State Counsel while opposing the instant criminal appeal supported the impugned order of the learned trial Court by contending that the impugned order is free from any illegality and has rightly been passed; that the learned trial Court has rightly held that the vehicle in question is case property and *superdari* of the same could not be given to the appellant at this stage, which would potentially affect the investigation/trial, therefore, the instant appeal may be dismissed and impugned order may be maintained.

5. Arguments heard, record perused.

6. Perusal of record reveals that vehicle No.DZ-054, Suzuki Mehran white colour, Model 2014 was detained by police in case FIR No.363, dated 13.10.2019, U/S 9/C CNSA, P.S. Ramna, Islamabad as the driver Naveed Ashraf was found in possession of 1300 grams charas in the said vehicle on 13.10.2019. The accused Naveed Ashraf is facing trial, however, vehicle in question has been claimed by the appellant by way of application to the trial Court on *superdari* being owner of the vehicle but the same was dismissed.

7. Notice was issued to the State, whereby I.O of this case has submitted a report that vehicle in question is in the name of appellant Raja Shoukat Ali and data verification service certificate issued by Excise & Taxation Officer Motor Registering Authority, Islamabad has been placed on record which confirms the status of vehicle that the same is registered in the name of appellant. When confronted, the I.O of this case states that Raja Shoukat Ali/appellant is the owner of vehicle in question and he rented out the same to the accused Naveed Ashraf vide rent agreement dated 05.09.2019. He further states that he has verified the fact that appellant is running Rent A Car business under the name and style of "Raja G Rent A Car & Property Advisor" at Allama Iqbal Colony, Rawalpindi. All the verified record of car rental business has been placed on record. Challan has already been submitted in the Court but there is no

likelihood of early conclusion of trial and vehicle in question is parked in the compound of Police Station Ramna since 13.10.2019 and as such the vehicle would be damaged due to extreme weather condition.

8. In view of above position, there is no rival claimant and as such appellant has justified his ownership from the record of Excise & Taxation and ready to produce the same as and when required by the Court. Hence, instant criminal appeal is allowed. Vehicle No.DZ-054 be released in favour of appellant on *superdari* subject to furnishing of surety bonds in the sum of Rs.6,00,000/- to the satisfaction of learned trial Court. Appellant shall produce the vehicle in question as and when required by the trial Court for the prosecution of accused.

(LUBNA SALEEM PERVEZ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid.