

**JUDGMENT SHEET**  
**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**Criminal Appeal No. 96/2020**

**Anti-Narcotics Force.**

**Versus**

**Mirza Zareef Baig.**

*Appellant by:* **Dr. Waseem Ahmad Qureshi, Special Prosecutor, ANF.  
Sheraz Sadiq, Inspector, ANF.**

*Respondent by:* **Mr. Haroon-ur-Rashid, Advocate.**

*Date of hearing:* **22.04.2020.**

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**LUBNA SALEEM PERVEZ; J:** This criminal appeal has been filed by the Anti-Narcotics Force (ANF), since, aggrieved with the order dated 28.01.2020, passed by the learned Judge Special Court (CNS), Islamabad, whereby, the learned Judge has allowed the application of respondent for superdari of vehicle No. ACB-518, Chassis No.KSP130-2108752, Engine No.IKR-1462361, Toyota Vitz, Model 2014.

2. Brief facts of the case are that the subject vehicle was taken into custody by the Appellant as 2.4 kg heroine was recovered from the said vehicle and FIR No. 06/2020, dated 10.01.2020, against two accused namely Mirza Usman Baig, the person driving the vehicle and Shakeel Ahmed sitting on front adjacent seat to the driver was registered u/s 9-C of CNSA, 1997, at Police Station ANF, RD-North Rawalpindi.

3. Learned Special Prosecutor, ANF, submitted that accused Mirza Usman Baig is the real son of the Respondent who was driving the subject vehicle wherefrom the contraband weighing 2.4 kg heroine was recovered from underneath the front seats; that the subject vehicle was used for transportation of the heroine;

that the vehicle is required for investigation in respect of case FIR No.06/2020, dated 10.01.2020; that the provisions of section 74 of CNSA, 1997, has not been appreciated by the learned Judge Special Court while allowing superdari as it bars the release of vehicle used for transportation of contraband and that the order is not sustainable as it is passed contrary to the provision of section 74 *ibid*.

4. On the other hand learned counsel for the Respondent submitted that he is the real owner of the vehicle and in support thereof submitted the vehicle Identification Card and his National Identity Card; that he has already deposited the surety of Rs. 15,00,000/- ordered by learned Judge Special Court, CNS; that the vehicle is not required for further investigation, however, same would be produced as and when required by the Appellant for investigation.

5. Arguments heard and record perused.

6. Impugned order dated 28.01.2020, reveals that the temporary custody of the vehicle No. ACB-518, Chassis No.KSP130-2108752, Engine No. IKR-1462361, Toyota Vitz, Model 2014, has been granted to the Respondent being the actual owner of the vehicle allegedly used for transportation of 2.4 kg of heroine. On Court's query, learned Special Prosecutor, ANF, submitted that challan is yet to be filed in the case as chemical examination report is awaited. Admittedly, the contraband has been recovered from beneath the seats of the said vehicle and not from any secret cavity therein, thus, question of any tempering with the vehicle does not arise. The Respondent has already furnished the surety amount as directed, *vide* impugned order dated 28.01.2020, for superdari of the vehicle and it is also observed that presently the vehicle is no more required for further investigation, therefore, detaining the vehicle for unspecified period will not be of any useful purpose.

7. In view of the discussion made, hereinabove, the impugned order dated 28.01.2020 does not suffer from any legal infirmity or irregularity calling for any interference.

8. For the foregoing reasons, present Criminal Appeal is hereby **dismissed**.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

Shakeel