

Form No: HCJD/C-121.
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Appeal No. 401 of 2019

Anti Narcotics Force
Vs
Tahir Iqbal

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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12-02-2020. Dr. Waseem Ahmed Qureshi, Special Prosecutor,
Anti Narcotics Force.

This appeal is directed against order, dated
23.09.2019, passed by the learned Judge, Special
Court (CNS), Islamabad.

2. The facts, in brief, are that officials of Anti
Narcotics Force intercepted a vehicle which led to
recovery of 245 grams cocaine from possession of
the respondent. Consequently, FIR No. 161/2019,
dated 01.08.2019 was registered under section 9(b)
of the Control of Narcotic Substances Act, 1997
(hereinafter referred to as the "**Act of 1997**"). The
respondent was arrested and the vehicle was seized.
The trial is pending before the learned Special Court
(CNS), Islamabad. The respondent filed an
application for seeking custody of the vehicle on
temporary basis. The said application was allowed
vide order, dated 23.09.2019.

3. The learned Special Prosecutor has been heard at length. He has referred to section 32 of the Act of 1997 in support of his contention that the vehicle was liable to be confiscated and, therefore, could not have been released on temporary basis.

4. The learned Special Prosecutor, Anti Narcotics Force has been heard and the record perused with his able assistance.

5. It is an admitted position that 245 grams of cocaine alleged to have been recovered were not concealed in the vehicle. The narcotic substance was in possession of the respondent. The trial is pending before the learned trial court. It is not denied that the vehicle is owned by the respondent and its custody has been handed over to him on temporary basis. The learned trial court has directed the respondent to produce the vehicle when so required. The learned Special Prosecutor, despite his able assistance, was not able to persuade us that the learned trial Court by giving temporary custody of the vehicle to the respondent has exercised discretion in an arbitrary or fanciful manner. The impugned order is well reasoned and keeping in the facts and circumstances of the instant case, does not require interference. Whether or not the vehicle is liable to be confiscated will obviously be decided by the learned trial court upon conclusion of the trial.

3.

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6. For the above reasons, this appeal is without merit and, therefore, accordingly dismissed.

(CHIEF JUSTICE)

(GHULAM AZAM QAMBRANI)
JUDGE

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