

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Misc. No. 485/BC/2019.**

Iqbal Butt

Versus

Malik Faizan Ali Khan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	16.10.2019.	Mr. Moazzam Ali Sheikh, Advocate for petitioner. Ms. Saima Naqvi, State Counsel. Mr. Raees Mumtaz Hussain, Advocate alongwith respondent No.1. Akram, S.I. P.S. Sabzi Mandi, Islamabad.

Through this Crl. Misc. petition, the petitioner has prayed for cancellation of pre-arrest bail granted to respondent No.1 vide order dated 26.06.2019, passed by learned Additional Sessions Judge (West), Islamabad, in case FIR No.194, dated 19.05.2019, U/S 406 PPC, P.S. Sabzi Mandi, Islamabad.

2. Learned counsel for the petitioner contends that petitioner has got lodged the above mentioned FIR against respondent No.1 with the allegation that respondent No.1 misappropriated his vehicle No.CE-289, Honda City, which was received by him on 04.07.2018 for personal use for few days; that the said vehicle was further handed over to one Nisar Khan who has used the same for the purpose of transportation of narcotics and the said vehicle was taken into custody by the police in case FIR No.36, dated 29.07.2018, U/S 9/C CNSA, 1997, P.S. ANF Multan; that respondent No.1

was granted pre-arrest bail in the above mentioned FIR without considering the pre-requisite of the pre-arrest bail as no malafide has been alleged by the Court in the impugned order and order is patently illegal, perverse and against the law.

3. Conversely, learned counsel for respondent No.1 contends that respondent No.1 neither received the vehicle from the petitioner, nor he handed over the same to anyone else and the entire case is false and frivolous; that petitioner has failed to produce any document through which entrustment of the vehicle could be proved.

4. Arguments heard, record perused.

5. Perusal of record reveals that petitioner has got lodged the FIR No.194, dated 19.05.2019, U/S 406 PPC, P.S. Sabzi Mandi, Islamabad with the allegation that respondent No.1 received vehicle No.CE-289 Honda City from the petitioner on the basis of his personal relationship for few days but later on refused to return the vehicle and instant case has been lodged.

6. The tentative assessment of record reveals that subject vehicle is the case property of case FIR No.36, dated 29.07.2018, U/S 9/C CNSA, 1997, P.S. ANF Multan in which 22.800 Kg charas was recovered from the secret cavity of the vehicle, which was driven by one Nisar Khan.

7. As per record one Gul Marjan is the owner of the vehicle in question and petitioner has no

relationship with the vehicle especially when *superdari* of the vehicle was applied by Gul Marjan before the Court of Special Judge CNS/ASJ, Multan, who has rejected the application vide order dated 22.10.2018 and even appeal filed by the said Gul Marjan vide Crl. Appeal No.1098/2018 before Lahore High Court, Multan was also dismissed vide order dated 19.02.2019.

8. All these facts as well as record of this case only highlighted the relationship of Gul Marjan with the said vehicle and the claim of petitioner against respondent No.1 is not visible on the basis of any document, even petitioner has failed to justify from any statement of witness with regard to handing over the vehicle by respondent No.1 to another rent a car showroom, dealer or to the said Nisar Khan in any manner.

9. I have also gone through the impugned order, which is based upon legal principles and no illegality has been observed, therefore, requirement of Section 497(5) Cr.P.C. is not visible as no perversity, illegality or violation of Court order or tampering with evidence of this case has been established against respondent No.1, therefore, instant petition is misconceived and the same is hereby dismissed.

(MOHSIN AKHTAR KAYANI)  
JUDGE