

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

Writ Petition No.250 of 2020

Rashid Inayat
Versus
Learned Sessions Judge (West), Islamabad, etc.

Petitioner By: Mr. Muhammad Zafar Khokhar, Advocate.
State by: Mr. Zohaib Hassan Gondal, State Counsel along
with Mian Khurram Sub-Inspector, Police Station
Shalimar, Islamabad.
Date of Hearing: 21.02.2020.

GHULAM AZAM QAMBRANI,J.:- The petitioner through the instant Writ Petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeks Superdari of the vehicle, Toyota Corolla, GLI bearing registration No.AFD-507, Chassis NZE170R-4127482, Engine No.Z501434, Model 2017, being recorded owner of the same.

2. Briefly stated facts of the case are that on 30.11.2019, on the written report of one Nisar Ahmed Khan F.I.R No.399 of 2019, was registered at Police Station Shalimar, Islamabad, under Section 392/34 P.P.C with the averments that on that day at about 12:30 am, he along with his family was at E-11 Market, Islamabad; In the meantime, a white colored Corolla Car bearing Registration No.AMC-121 stop them, two persons boarded from the car, stating themselves as C.I.A Officials and asked for the registration book of vehicle; In the meantime, the other companion while aiming pistol at the wife of complainant looted and deprived them from

golden ornaments, pistol of the complainant and made their good escape from the scene towards Golra.

3. The petitioner filed an application before the Court of learned Judicial Magistrate (West) Islamabad, for Superdari of vehicle which was dismissed vide order dated 19.12.2019. Feeling aggrieved from the said order, the petitioner filed a Criminal Revision before the Court of learned Sessions Judge (West) Islamabad, which was also dismissed vide order dated 13.01.2020. Hence, this petition.

4. Learned counsel for the petitioner contended that the petitioner runs business of "Rent a Car" in the name of WALEED MOTORS having office at Block-C, near Tehzeeb Bakers, Islamabad, and the same vehicle was rented out to one Fahad Bilal on rent through an agreement; Contended that the vehicle in question has been impounded by the police and the vehicle is standing in open sky where the condition of the vehicle is being deteriorated day by day and there is apprehension of its being damaged; Contended that the vehicle in-question is the source of income of the petitioner and there is no other claimant of the vehicle except the petitioner; Contended that the Courts below failed to consider the submission of the petitioner while dismissing the application for Superdari of the vehicle without any legal justification.

5. Conversely, learned counsel for the State opposed the arguments advanced by the learned counsel for petitioner on the ground that the vehicle in question has been used in the commission of offence and the same has to be produced during trial. Lastly, prayed for dismissal of the petition.

6. I have been heard arguments of the learned counsel for the parties and have gone through the available record with their able assistance.

7. Perusal of record and the contents of F.I.R reveal that at the time of commission of alleged offence, allegedly the culprits were having car bearing registration number AMC-121 who looted them and deprived them from their valuable articles. Perusal of the record further reveals that the S.H.O Police Station Shalimar, Islamabad, vide report dated 17.12.2019 submitted to the Judicial Magistrate, mentioning therein the fact that the vehicle in-question was rented out to one Fahad Bilal by the petitioner on monthly rent for Rs.80,000/-. I have perused the original registration book of the vehicle in-question, the petitioner is recorded owner of the same, therefore, he is entitled to take the same on Superdari.

8. Keeping in view the facts and circumstance of the case instant petition is **allowed** in favor of petitioner subject to furnishing of his surety bond in the sum of Rs.15,00,000/- (fifteen lac only) and PR of the like amount to the satisfaction of the learned trial Court. The petitioner is directed not to change the condition or color of the vehicle in any manner and to produce it before the Court as and when required.

(GHULAM AZAM QAMBRANI)
JUDGE

"Rana.M.Ift"