HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Revision Application No.D-14 of 2025.

Before;
Mr. Justice Arshad Hussain Khan.
Mr. Justice Muhammad Hasan (Akber).

Applicant:	Ghulam Sarwar through Mr. Jahangir Khan Pathan, Advocate.
Respondent:	The State through Mr. Nazar Muhammad Memon, Additional Prosecutor General a/w Faisal Nisar Qureshi (Deputy Director, Excise Hyderabad) and Mushtaque Patoli (Incharge Excise GOR, Hyderabad).
Date of Hearing:	10.12.2025.
Date of Decision:	10.12.2025.

O R D E R

MUHAMMAD HASAN (AKBER), J.- Through this Criminal Revision Application, filed under section 435/439, Cr.P.C, the applicant has impugned the Order dated 25.04.2025, whereby the learned Sessions Judge, Jamshoro dismissed the Application U/s 517 Cr.P.C filed by the present applicant (Ghulam Sarwar) for release of vehicle i.e. Toyota Corolla Car bearing Registration No.BAZ-190, Chassis No.NZE140-2177106, Engine No.Y882835, Model 2013 [**Subject Vehicle**] being case property in Crime No.41 of 2024 of PS Jamshoro.

2. Learned counsel for applicant argued that the applicant is owner of the subject vehicle but his application under section 527 was disallowed by the learned Sessions Judge, Jamshoro without considering the contents of Application as well as report submitted by the Excise and Taxation Department; that the learned trial Court ignored the contents of application earlier moved by the applicant; that the learned trial court also failed to consider that the vehicle is no more required to the prosecution in any case; that there is no other claimant except applicant, who is also lawful owner of the subject vehicle. He prayed that the impugned order be set aside and the subject vehicle be handed over to the applicant.

3. Conversely, the learned Additional Prosecutor General along with Deputy Director and the Incharge, Excise Department Hyderabad, contended that the vehicle

in question was illegally transferred by the Excise Department to applicant while the vehicle was seized with narcotics and was within the custody of the Court since the incident occurred on 27.02.2024; further points out that such transfer was conducted without any physical verification, which is completely unlawful and if such a practice is allowed to prevail, then every seized vehicle in cases of narcotics would be transferred and the entire object and purpose of the Act would be defeated. Further pleaded that the learned Sessions Judge, Jamshoro has rightly passed the impugned order, which requires no interference by this Court. Lastly prayed for dismissal of the application.

4. We have heard the learned counsel for the parties, perused the record of the case, considered the submissions made by the officials of the Motor Registration Authority ("Authority"), and examined the relevant law.

5. Facts of the case are that on 27.02.2024 at 20:00 hours, on the Super Highway between Karachi-Hyderabad near the old Toll Plaza, Jamshoro, a police party from P.S. Jamshoro, while conducting a routine check, apprehended Zeeshan Shafique who was driving the subject vehicle. Upon search, 24 kilograms and 200 grams of chars packed in a nylon sack were recovered from the rear seat of the subject vehicle, leading to registration of FIR No.41/2024 under Section 9(1)(3)(e) of the CNS Act 1997 (Amendment 2022) of Police Station Jamshoro. The subject vehicle was seized on 27.02.2024 and it remained in Judicial custody, whereas the trial was concluded on 19.11.2024, with the acquittal of the accused. The present applicant was neither the owner of the vehicle on record of the Excise Department, nor was he nominated in the FIR as the owner, nor did he join the investigation, nor did he ever approach the learned trial Court. Even when the vehicle was seized, no FIR was lodged by the applicant for recovery of the vehicle, nor any application was moved under section 22-A&B Cr.PC. for registration of FIR by him. It was only after the acquittal Judgment that the present applicant surfaced and filed an application claiming ownership based upon some agreement with the earlier owner. Therefore, the applicant does not pass the requirements laid down in section 517 Cr.PC. and the proviso to section 32 of CNSA. In addition to the above concerns about the genuineness of the transaction, **the more concerning aspect of this matter, however, is the transfer of the vehicle by the Excise Department on 05.03.2025, during the period when the vehicle was seized and was a case property in the subject criminal case, wherein trial was proceeding.** In this regard, the concerned officers of the Excise Department were also called, who could not point out any legal

or valid explanation to justify the transfer of the said vehicle/ case property, without physical verification of the vehicle, and that too, during the pendency of the trial. The concerning aspect is that if such a practice is allowed to prevail, ownership of the vehicles which are involved in criminal activities or seized, or are case properties in criminal cases, or in other proceedings, would be transferred, without the permission of the concerned Court. This would practically defeat the object and purpose *inter alia* of various legal provisions, including sections 32 of the Control of Narcotics Substances Act 1997; section 24 of the Sindh Control of Narcotic Substances Act 2024, amongst relevant provisions of the Pakistan Penal Code and the Criminal Procedure Code. The possibility of other such vehicles being transferred in such an unlawful manner also could not be ruled out. In these circumstances and since more than one Department/ agency would be involved in this issue, we therefore direct the Chief Secretary Sindh to look into the matter, in coordination with all relevant Departments/ Agencies, and implement preventive measures to avoid such practice in future. The instant Cr. Revision Application, therefore, stands dismissed with the above directions. The Office is directed to send a copy of this Order to the Chief Secretary Sindh. These are the reasons for our short Order dated 10.12.2025.

JUDGE

JUDGE