

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Revision Appln. No. S-57 of 2024

Applicant : Muhammad Ayoub s/o Allah Dino, Panhyar
Through Mr. Rahib Islam Nabi Malano, Advocate

Respondent : The State
Through Syed Sardar Ali Shah, Addl. P.G

Date of hearing : 13.02.2026
Date of order : 13.02.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. — The present Criminal Revision Application assails the order dated 30.07.2024, whereby the learned Additional Sessions Judge-II, Ghotki declined the applicant's plea under Section 516-A, Code of Criminal Procedure, 1898, seeking restitution of custody (*Superdari*) of Mazda Mini Truck bearing Registration No. RNI-140, Engine No.3867, Chassis No.201591, Model 1980, seized in a case bearing Crime No.129/2023, for offences under Sections 324, 114, 427, 109, 506/2, 147, 148, and 149, Pakistan Penal Code-1860, registered at Police Station Sarhad, District Ghotki, on the allegation of its utilization during the occurrence.

2. Learned counsel for the applicant submits that the applicant is the registered proprietor of the vehicle in question. Although the vehicle is named in the FIR, no weapon, contraband, or forensic trace material has been recovered therefrom. It is urged that the investigation has culminated and no evidentiary necessity subsists for continued official retention. It is further contended that the vehicle lies exposed to natural elements at the police premises, occasioning progressive deterioration and inflicting pecuniary hardship upon the applicant, whose means of livelihood are contingent thereon. Hence, its release on *Superdari* is prayed for.

3. Per contra, the learned Additional Prosecutor General opposes the application, asserting that the vehicle was employed in the commission of the offences and constitutes an integral component of the prosecution case. It is

further contended that ownership was transferred to the applicant subsequent to the occurrence, warranting judicial circumspection, and that the impugned order merits sustenance.

4. Having examined the record with anxious solicitude, it transpires that whilst the vehicle is alleged to have been utilized during the occurrence, no forensic report, ballistic examination, or material nexus has been adduced to demonstrate its evidentiary significance beyond its mere mention in the FIR. The investigation stands substantially concluded, and physical custody of the vehicle no longer appears indispensable for the purposes of trial or further inquiry.

5. The Hon'ble Supreme Court of Pakistan, in *Ahsan Ali Dawach v. The State* (2025 SCMR 1041), expounded the juridical principles governing applications under Section 516-A, Cr.P.C, and held:

"The scheme of law permitting the interim custody of vehicle on Superdari neither amounts to prejudice the trial, nor gives a clean chit to the accused, nor does it relieve or exempt the owner/recipient of custody from pending legal proceedings. However, the duration of the interim custody may continue subject to the bond and surety till the final fate of the case, till then, the person allowed interim custody is duty-bound under the law to attend, participate, and produce the vehicle as and when directed by the Court."

6. Their Lordships further observed in the said judgment that applications under Section 516-A Cr.P.C, must be decided expeditiously after affording a fair opportunity to contest the legality of the seizure, and that orders must be predicated upon cogent reasons as to why the vehicle should be released or retained.

7. It is a well-entrenched principle of criminal jurisprudence that case property should not languish indefinitely in police custody, particularly when such detention entails physical decay, depreciation, and financial prejudice to the lawful owner. The vehicle's continued retention in official custody, in the

absence of demonstrable investigative or evidentiary necessity, offends the canons of equity and justice.

8. In the instant case, the applicant's ownership is duly registered and unchallenged, and no rival claimant has surfaced to dispute the same. The subsequent transfer of ownership, absent proof of mala fides, collusion, or fraudulent contrivance, does not, *per se*, operate to divest the applicant of entitlement to interim custody. Any apprehension concerning production of the vehicle during trial can be adequately secured through imposition of appropriate sureties and undertakings. Consequently, no legal impediment subsists to withholding its release on Superdari.

9. In the conspectus of the foregoing discussion and guided by the authoritative pronouncement of the Hon'ble Supreme Court in *Ahsan Ali Dawach (supra)*, this Court is of the considered view that the learned trial court fell into error in declining the application under Section 516-A Cr.P.C. The impugned order is, therefore, found to be unsustainable in law.

10. Accordingly, for the reasons afore-recorded, the instant Criminal Revision Application is allowed in the following terms:

- i) *The impugned order dated 30.07.2024, passed by the learned Additional Sessions Judge-II, Ghotki, is hereby set aside.*
- ii) *The Mazda Mini Truck bearing Registration No. RNI-140, Engine No. 3867, Chassis No. 201591, Model 1980, shall be released to the applicant on Superdari, subject to furnishing of solvent surety in the sum of Rs.1,000,000/- (Rupees Ten Hundred Thousand only) and execution of personal recognizance bond of the like amount, to the satisfaction of the learned trial court.*
- iii) *The applicant shall execute an undertaking before the trial court to the effect that he shall neither sell, transfer, alienate, nor materially alter the vehicle without prior permission of the trial court, and shall produce the same as and when required during the course of trial or upon direction of any competent court of law.*
- iv) *Office is directed to transmit a copy of this order to the learned trial court forthwith for compliance.*

J U D G E