

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Application No. S – 89 of 2026

Applicant : Sajid Khan S/o Aurangzeb Khan,  
Through Mr. Israr Ahmed Shah, Advocate

The State : Through Mr. Shafi Muhammad Mahar, DPG

Date of hearing : 27.02.2026  
Date of order : 27.02.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— Applicant Sajid Khan, invoking the inherent jurisdiction of this Court under Section 561-A, Code of Criminal Procedure, 1898, impugns the legality, regularity, and propriety of the order dated 22.01.2026 passed by the learned Additional Sessions Judge-II (G.B.V Court), Mirpur Mathelo, in Sessions Case No. 114 of 2025 (The State v. Muhammad Bashir Awan and others), arising out of Crime No. 89 of 2024 of Police Station Belo Mirpur. By the said order, the learned trial Court directed that the case property viz a Coach/Yutong Bus earlier released on *Superdari* be retained at the police station until conclusion of the trial.

2. Learned counsel for the applicant contends that applicant is the undisputed registered owner of Coach/Yutong Bus bearing Registration No. BTA-033, which had been duly entrusted to him under *Superdari* pursuant to order dated 10.10.2024 passed by the learned Additional Sessions Judge-I, Mirpur Mathelo, in Cr. Misc. Application No. 31 of 2024. It is urged that without recalling, annulling, or even adverting to the subsisting judicial order, the learned trial Court, through the impugned directive of 22.01.2026, abruptly divested the applicant of lawful custody, thereby transgressing principles of natural justice, fair procedure, and judicial decorum.

3. Conversely, the learned Deputy Prosecutor General, while opposing the petition, with fairness conceded that the learned trial Court had not annulled or modified the earlier Superdari order before passing the impugned directive.

4. I have anxiously heard learned counsel and perused the record with requisite circumspection. The factual matrix admits of no controversy that the vehicle in question had been released on Superdari by a competent Court through order dated 10.10.2024, which remains extant and unrevoked. The subsequent order taking the property back into official custody, without recall or rescission of the prior subsisting order, constitutes a patent irregularity, amounting to a nullity in the eyes of law.

5. The record further reveals that the impugned order was rendered *ex parte*, without issuance of notice or affording audience to the applicant. This omission strikes at the root of due process. The right to be heard before deprivation of property or alteration of legal status is a jurisprudential axiom, the denial whereof vitiates every exercise of judicial authority. The power to regulate or even rescind Superdari may indeed exist, but its invocation must be reasoned, proportionate, and preceded by compliance with *audi alteram partem*. The impugned order bears no trace of these indispensable preconditions.

6. It is a well-recognized and time-honored principle of criminal jurisprudence that case property, once duly identified, ought not to languish indefinitely in police custody, as such confinement engenders depreciation, dilapidation, and pecuniary loss to its lawful proprietor. Where retention serves no tangible evidentiary or investigative purpose, it offends both equity and good conscience.

7. The jurisdiction vested in this Court under Section 561-A Cr.P.C, is a constitutional safety valve designed to prevent miscarriage of justice,

correct palpable abuse of process, and secure the sanctity of judicial procedure. An order rendered in derogation of an existing judicial command and in disregard of fair hearing irresistibly invites supervisory correction.

8. In these circumstances, the impugned order dated 22.01.2026 is the product of procedural impropriety and jurisdictional error. The learned trial Court acted *coram non judice* in usurping to itself a power which could only be exercised after recalling the earlier subsisting order, and that too upon due notice to the affected party. The order, therefore, cannot withstand judicial scrutiny.

9. Resultantly, the instant Criminal Miscellaneous Application is allowed in the following terms:

- (i) *The impugned order dated 22.01.2026, passed by the learned Additional Sessions Judge-II(G.B.V. Court), Mirpur Mathelo, is hereby quashed and set aside.*
- (ii) *The order dated 10.10.2024, passed by the learned Additional Sessions Judge-I, Mirpur Mathelo, in Cr. Misc. Application No.31 of 2024, shall remain operative, and the custody of Coach/Yutong Bus bearing Registration No. BTA-033 shall continue with the applicant on the same terms and conditions of Superdari earlier imposed.*
- (iii) *The applicant shall honor the undertaking previously furnished and shall ensure production of the vehicle before the trial Court whenever so directed. In case of future default, the trial Court shall be competent to proceed strictly in accordance with law after granting reasonable opportunity of hearing.*
- (iv) *The learned trial Court is directed to expedite proceedings in Sessions Case No.114 of 2025 and conclude the same within a reasonable and practicable timeframe, uninfluenced by any observation contained herein.*

Office shall transmit an authenticated copy of this order to the learned trial Court forthwith for information and prompt compliance.

**J U D G E**