IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Misc. Application No.S-357 of 2026

Applicant: Noor Muhammad son of Imam Din.
Through Mr. Vinod Kumar Dhanwani, Advocate.

Respondent: The State through Mr. Neel Parkash, D.P.G.

Date of Hearing: 16.11.2026

Date of Order: 16.11.2026

O R D E R

Nisar Ahmed Bhanbhro, J*:* Through, this application, the applicant seeks restoration of the possession of the Car allegedly involved in crime No.159/2026 under section 5-8(i) Gutka Mainpuri Act of PS Tando Adam City. Applicant filed application under section 516 - A Cr.P.C, before Learned Judicial Magistrate I Tando Adam (Trial Court), which was dismissed vide order dated 02.07.2026, his challenge to said order before Learned Additional Sessions Judge II Tando Adam also failed.

2. It is case of the prosecution that the applicant Noor Muhammad was apprehended while transporting Mainpuri & Gutka in the vehicle and this factual position has not been denied by the counsel for the applicant, however, he submits that since the applicant runs said car as taxi, therefore, same may be returned to him to earn livelihood.

3. Learned D.P.G has opposed the application and supported the impugned order.

4. Heard arguments and perused the record.

5. Since the applicant was involved in the transportation of Gutka and Mainpuri, and was arrested while transporting the contraband material in the car he calims restoration. Section 13 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019, envisgaed that the assets acquired through such illicit busniess are subject to forfeiture. Section 13 of the said Act is reproduced as under:

> "**13. Forfeiture of assets of an offender**.-Notwithstanding anything contained in above sections, where the Court finds a person guilty of an

offence punishable under section 3, 4, 5, 6 and 7 this Act and sentences him to imprisonment for a term exceeding three years, the Court shall also order that his assets derived from preparation, manufacturing and trafficking substances as defined in clause' (vi) and (viii) of section 2, shall stand forfeited to Government unless the Court is satisfied that the said assets or any part thereof has not been acquired by commission of above said Acts, constituting offences under this Act, the burden of proof whereof shall lie on the accused to prove the same.

(1) If the property ordered to be forfeited is immovable, the forfeiting shall in the case of land paying revenue, be made through the Collector of the District in which the property is situated in all other cases:

(i) by taking possession; or

(ii) by appointment of receiver; or

(iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

(iv) by all or any such method as the Court may deem fit;

6. Perusal of the contents of the application moved by the applicant under section 561-A Cr.P.C reflects that he has not raised any ground to controvert such statutory provision, that the said property was not acquired by means of illicit business. Therefore, his application was rightly declined for restoration of vehicle. Applicant can claim the possession of vehicle, by producing tangible evidence before Trial Court, disproving his involvement in sale of prohibited contraband articles.

7. Consequently, the instant Criminal Miscellaneous Application being at premature stage is dismissed. Applicant may file a fresh application after recording of evidence if so advised.

JUDGE

“Adnan Ashraf Nizamani”