

ORDER SHEET
THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Cr. Rev Appl: No.S-141 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For katchapeshi.

For hearing of M.A No.6361 / 17

23.01.2018.

Mr. Muhammad Hassan Chandio, Advocate for applicant.

Mr. Shahnawaz, Junior Associate of counsel for complainant.

Mr. Shahid Shaikh, Additional Prosecutor General.

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Through this Criminal Revision Application, the applicant has impugned an order dated 07.06.2017, passed by the learned Sessions Judge, Shaheed Benazirabad, in CrI. Misc. Appl. No.951 of 2017 filed by the applicant under Section 516-A Cr.P.C.

2. I have heard the respective counsels for both the parties and the learned APG. It appears that Vehicle Model Toyota Corolla registration No.AHL-041, which is owned by the applicant was used in the commission of a crime, the case of which is pending adjudication before the learned 4th Additional Sessions Judge, Shaheed Benazirabad. It is an admitted position that the applicant is the owner of the above mentioned vehicle and that he has not been nominated in the crime as an accused nor is it the prosecution case that he was present in the car. It further appears that the occupants of the vehicle had disembarked from this vehicle and committed the crime which they have been charged with. Admittedly, there is no evidence on record to show at this stage that even if the vehicle was used in a commission of the offence, the applicant was in knowledge of the same.

3. Learned A.P.G has vehemently opposed the grant of instant application on the ground that it is the applicant on whom lies the onus to prove his innocence. With much respect to the learned A.P.G, I do not agree with this argument of the learned A.P.G. Had the prosecution been in possession of any evidence that would establish knowledge of the Applicant, most surely he would have been nominated as an accused in the crime. Learned A.P.G further argues that what has been written in the FIR may be treated as truth. Once again with much respect to the learned A.P.G, I do not agree with the learned A.P.G. Upon query

from the prosecution, whether there is any evidence available to establish a nexus between the Applicant and the crime, the learned A.P.G has been unable to point towards even a single piece of evidence in this regard.

4. In view of what has been stated before me by the learned A.P.G and the learned counsel for the respondents, I am not satisfied that the Vehicle in question may not be returned to its owner. Accordingly, the order dated 07.06.2017 is set-aside, the Vehicle shall be returned forthwith to the Applicant subject to his furnishing proof of ownership and submitting an affidavit in the trial Court that as and when the court directs, he shall produce the subject Vehicle in Court.

5. The instant revision application is disposed of accordingly.

JUDGE

FahadMemon