

Present:

Petitioner Aslam Kan, along with Tafseel Khan Afridi Adv.
DPP Umar Niaz Khan for State

Petitioner **Aslam Kan** s/o Nazar Band; r/o Zakha Khel, Khasrogi, Landi Kotal, District Khyber is seeking **superdari** of one motor car, bearing registration no. LXF-251/Lahore (model 1998), and its original registration book, which are in the custody of local police of PS Lower Orakzai in case FIR # 82 dated 19-07-2020 u/s 9 (d) KP-CNSA.

Summarized facts of the case, according to FIR, are that the local police had recovered 7200 grams of Charas from the above-mentioned vehicle, while the same was being driven by one Jan Akbar (accused). The accused was arrested and vehicle seized by police. According to recovery memo, dated 19-07-2020, only motorcar was taken in possession by police and there is no mention of registration book. The present petitioner is in possession of original registration book at present. Therefore, the instant order shall only relate to motorcar and not the registration book.

The present petitioner has filed the instant petition claiming to be owner (bonafide purchaser) of the vehicle in question; that he had given the vehicle to the accused Jan Akbar for driving, as taxi, on monthly payment. The petitioner claims that he was not in knowledge of the alleged illegal activity being committed in the said vehicle. Accused Jan Akbar (last possessor of vehicle) has also appeared in court today and has submitted an affidavit in favour of present petitioner. The affidavit is placed on file.

Arguments heard and record perused; which shows that:

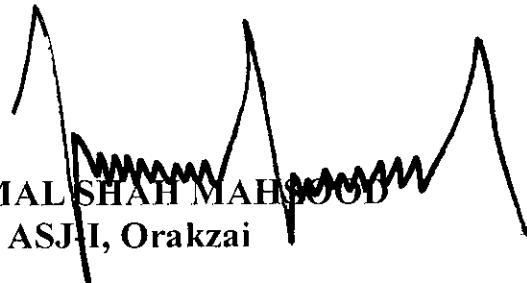
JAMAL SHAH MAHSUD
Addl: District & Sessions Judge-I,
Orakzai at Hangu

(4)

1. The petitioner is in possession of the original registration book of the vehicle in question and sale deed in his favour (copies are placed on file).
2. The petitioner has not been arrayed as accused in the case and there is nothing on the record which would establish that he had knowledge about any illegal activity taking place in his vehicle.
3. The case was registered on 19-07-2020, but so far, no report in respect of vehicle has been obtained from the relevant Registration Authority or from FSL Peshawar.
4. There is no rival claimant and no useful purpose would be served by keeping the vehicle in question in PS for indefinite period.

In the circumstances stated above, the petitioner is deemed entitled to the temporary custody of the vehicle on Superdari. Resultantly, the instant petition is allowed and it is hereby directed that vehicle mentioned above (Toyota Corolla motorcar no. LXF-251/Lahore) may be handed over to the petitioner Aslam Khan; subject to furnishing of bonds in the sum of Rs.600,000/- (six lacs) from two local and reliable sureties, each in the like amount, to the satisfaction of the SHO concerned. The petitioner shall be bound to produce the vehicle before any court of law or investigating officer as and when required. The SHO is directed to place a copy of bonds on record. Let copy of this order be placed on record. File be consigned to Record Room after its completion.

Announced
01-09-2020


JAMAL SHAH MAHSOOD
ASJI, Orakzai