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IN THE COURT OF ADDITIONAL SESSIONS JUDGE, ORAKZAI, AT BABAR MELA

Superdari Petition No. 14/4 of 2023
Saqib Khan Vs State

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order-2	29/05/2023	<p>Case file is received from the Court of Hon'ble the District & Sessions Judge, Orakzai. It be registered.</p> <p>Petitioner along with counsel and DPP for the State are in attendance. Arguments heard; whereas, this is the disposal of Criminal Misc Application for custody and disposal of property pending Trial.</p> <p>Mr. Khurshid Alam Advocate representing petitioner stated at the bar that petition to the extent of return of the Mobile may be treated as withdrawn on the score that separate application for such item will be presented on its exhibition in the trial. Petition to the extent of return of Computerized National Identity Card has been argued and is under adjudication.</p> <p>Petitioner Saqib Khan son of Noor wali resident of Qaum Bar Muhammad Khel, Tappa Khwaidad Khel, Tehsil lower, District Orakzai is seeking return of his Computerized National Identity Card, taken into possession by local police in case FIR No.38 dated 13-04-2023, registered under Sections 17-3 Harrabah, at Police Station, Kalaya Orakzai.</p> <p>Section-516 A of Criminal Procedure Code, 1898 is dealing the subject of order for custody and disposal of property pending trial. The recovered article is not falling</p>



SAYED FAZAL WAD
Addl. District & Sessions Judge
Orakzai at Hangu

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within the definition of "weapon of offence". This fact is admitted by the police and supported by the record available on file as well. The scope of Section 516-A is limited and the Court, in normal course, would restore possession to the party from whose possession the article is recovered and question of title would be left open to be decided by Civil Court. Its theme settled by Law is that proper custody shall be the ultimate goal for which the Court has duty bound to issue order as it thinks fit with artless prerequisite of exercise of discretion judiciously. Perusal of the case record would reveal that in the course of investigation, the CNIC mentioned above was taken into possession by police vide Recovery Memo. At the moment, there is no rival claimant before the Court as well. Further, no useful purpose will be served if the same is retained in the custody of the local police rather it will render question of identity of the petitioner inconvenient. Hence, the same be returned to petitioner by furnishing surety bonds in the sum of Rs.50,000/- (Fifty Thousands); with two sureties; each in the like amount, to the satisfaction of SHO concerned, subject to the condition, that the petitioner shall produce the same during trial, if required.

Record be returned back with copy of this Order.
File be consigned to the District Record Room, Orakzai after its completion and compilation within the span allowed for.

Announced in open Court.


Sayed Fozal Wadood,
AD&SJ, Orakzai at Baber Mela