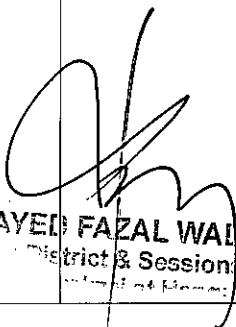


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IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUDGE SPECIAL COURT
ORAKZAI, AT BABAR MELA

Superdari Petition No. 16/4 of 2023
Madah Khan Vs State

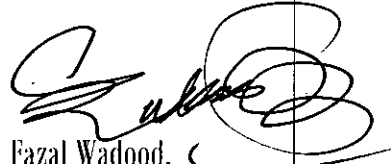
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	13/06/2023	<p>Petitioner in person along with his counsel namely Mr. Khursheed Alam Advocate and APP for the State are in attendance. Record received and Arguments heard; whereas, this is the disposal of Criminal Misc. Application bearing No. 16/4 of 2023.</p> <p>Petitioner Madah Khan son of Esa Nabi resident of Usterzai, District Kohat is seeking return of Suzuki, Chassis No. SR308PK491840, Engine No. PKT-386756, taken into possession by local police in case FIR No.49 dated 09.05.2023 registered U/s 15AA at Police Station Kalaya, District Orakzai. The Chassis Number and Engine No. have been mentioned in Recovery Memo as 491840 and 386756 respectively; whereas, the numbers reflected on record of ownership differs in a single figure, which is seemingly matter of clerical mistake and cannot be clutched for technical knockout.</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 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</p>


SAYED FAZAL WADOOD
District & Sessions Judge

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 duly bound to issue order as it thinks fit with simple prerequisite of exercise of discretion judiciously. Perusal of the case record would reveal that in the course of investigation, the Suzuki mentioned above was taken into possession by police vide Recovery Memo dated 09-05-2023. The petitioner produced the original of documents annexed with the petition (original seen and returned); whereas, photo copies of the documents retained on record. At the moment, there is no rival claimant before the Court as well. Further, no useful purpose will be served if the vehicle is retained in the custody of the local police rather it will damage its physical condition. Hence, the same be returned to petitioner by furnishing surety bonds in the sum of **Rs.** 2,000,000 (two million); 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. Petitioner is further directed not to dispose of the vehicle till disposal of the case.

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

Announced in open Court.


Sayed Fazal Wadood,
AD&S/J/JSC, Orakzai at Baber Mela