

**IN THE COURT OF BAKHT ZADA**  
ADDITIONAL SESSIONS JUDGE-I, ORAKZAI (AT BABER MELA)

CR. MISC. APPLICATION NO. : 2/4 OF 2024  
DATE OF INSTITUTION : 11.11.2024  
DATE OF DECISION : 20.11.2024

HAYAT KHAN S/O AFZAL KHAN, R/O CASTE FERUZ KHEL, TAPA  
JAISAL KHEL KARI, TEHSIL LOWER, DISTRICT ORAKZAI

..... (PETITIONER)

-VERSUS-

STATE THROUGH SHO POLICE STATION KUREZ BOYA

..... (RESPONDENT)

**Present** : Mr. Sana Ullah Khan Advocate for petitioner.  
: Sr. PP Abul Qasim for the State.

**FIR No.** 60  
**U/S:** 9(d)CNSA

**Dated:** 17.10.2024  
**Police Station:** Kurez Boya

**ORDER:**  
20.11.2024

Sr. PP Abul Qasim for the State present. Petitioner along with Mr. Sana Ullah Khan Advocate present. Arguments heard and record gone through.

(2). The petitioner Hayat Khan s/o Afzal Khan r/o Tapa Jalil Khel, Kari Tehsil Lower District Orakzai is seeking Supardari of flying coach/ Hiace, violet colour bearing registration No. EA-3380/Peshawar, Engine No. TROO37943, chassis No. TRH112-0011756 which is in custody in local police of PS Kurez Boya in case FIR 60, dated 17.10.2024, registered u/s 9(d) CNSA.

(3). Summarized fact of the case, accordingly to FIR, are that the local police had recovered chars weighing 15000 grams from the second seat behind the driver seat. The petitioner alleged that he is last possessor/owner of the vehicle in question while the same

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was given to driver/ accused Akhtar Gul s/o Malak Jan for driving as a public transport on the route from Tirah to Bara. That the accused driver was hired for driving on monthly salary. The petitioner claims that he is not in the knowledge of the alleged illegal activity being committed in the said vehicle. The petitioner produced one, Muhammad Jamil in the court today, from whom he claims have purchased the vehicle. Accused Akhtar Gul (last possessor of the vehicle) also produced in custody in the court. Statement of Muhammad Jamil, from whom the vehicle was purchased by the petitioner, wherein Muhammad Jamil stated that he has sold the vehicle to the petitioner Hayat Khan at the sale consideration of Rs. 25,00000/- on 10.10.2022. The original sale deed produced which is returned after perusal while its copy is Ex. PA. Accused/last possessor, Akhat Gul present in the court and recorded his statement wherein he also categorically stated the vehicle belongs to one Hayat Khan (petitioner) and that he was hired by him as driver to use the vehicle in question as public transport against monthly salary.

Arguments heard and record perused, which shows that;

1. The petitioner Hayat Khan is in possession of the original registration book of the vehicle in question and sale deed in his favour (copies placed on file).
2. The petitioner is not nominated as accused in the case and that there is nothing on the record which would establish that he had knowledge about any illegal activity taking place in the vehicle.

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3. That there is no rival claimant and no useful would be served by keeping the vehicle in question in the PS under the open sky for indefinite period.
4. That there is no secret cavity alleged to have been found by the police in the vehicle in question.
5. In these circumstances, when the last possessor and seller have recorded their statement regarding the ownership of the vehicle that the same belongs to the petitioner, furthermore, the petitioner is not charged in the FIR and there is no secret cavity in the vehicle, therefore 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 the vehicle mentioned above be handed over to the petitioner, Hayat Khan subject to furnishing of bonds in the sum of Rs. 1500000/- with two sureties each like amount to the satisfaction of the SHO PS concerned. The petitioner shall be bound to produce the vehicle in question before any court of law or investigating officer as and when required. The SHO is directed to place copy of the bonds on record. Copy of this order also be placed on the main case file while record of this court be cosigned to record room.

**Announced.**

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