

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Misc. Application No. 535 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of main case.

**10-03-2023**

Mr. Qaim Ali Memon, Advocate for applicant.

Mr. Faheem Ahmed Panhwar, Addl.P.G. a/w SIP Omar Sajjad, I.O.

Mr. Saddam Hussain, Advocate for complainant.

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**Omar Sial, J:** Sabit Khan has challenged an order dated 10.09.2022 passed by the learned 8<sup>th</sup> Additional Sessions Judge, Karachi South. In terms of the said order an application under section 516-A Cr.P.C. was dismissed by the learned trial court.

2. A background to the case is that F.I.R. No. 734 of 2022 was registered on 13.08.2022 at the Preedy police station under sections 320, 337-G and 279 P.P.C. The complainant was one Shehryar who reported that his brother Nasir along with his wife and daughter had an accident in which a vehicle with registration number PE-4619 hit them and consequently Nasir and his wife lost their lives while their daughter was seriously injured. The driver of the vehicle, Shehzad Gul, was arrested and is now facing trial. It is not the prosecution's case that the applicant herein was present or involved in the accident which had occurred.

3. Learned counsel for the complainant as well as the learned Additional Prosecutor General were of the view that the vehicle should not be returned to the applicant as he had not transferred the vehicle in his name to date when he allegedly purchased it from the previous owner and that the vehicle was involved in an accident that caused the loss of 2 lives.

4. The investigating officer was asked to conduct an inquiry whether the applicant was the owner and whether he was the last possessor of the same. The investigating officer of the case vide his report dated 08.03.2023

reported that the record shows that the vehicle is still registered in the name of the previous owner Zafarullah who died some years ago. The investigating officer further confirmed that the vehicle was subsequently sold to the applicant and that after interviewing people he has determined that it was indeed the applicant who was the last possessor of the vehicle and that the same was being driven by Shehzad Gul.

5. No purpose will be served in letting the vehicle rot in the police station where it is parked exposed to elements. It was not the vehicle itself which was the culprit for the incident but the person driving it who has a case to answer. Investigation is complete and the vehicle is not required for further investigation. The vehicle may be returned to the applicant upon his fulfilling the following conditions:

(i) swearing an affidavit that he will not alienate the vehicle or create any third party interest in the said vehicle till the judgment at trial is announced and then its release or otherwise will be subject to the judgment of the learned trial court. The affidavit shall also contain representations that the applicant will not change or modify in any manner the look, color, shape, specifications of the vehicle in any manner whatsoever and that he shall make the vehicle available in court as and when directed by the learned trial court.

(ii) the relevant Director of Excise and Taxation will be informed that the relevant entry be made against the record of the vehicle in its record so that no further transactions can be conducted on the vehicle without approval of the learned trial court.

(iii) the original papers of the vehicle shall be deposited in the learned trial court and the receipt of deposit of the papers together with photocopies of the papers will suffice for traffic police requirements.

(iv) a PR Bond in the sum of Rs. 2 million will be taken from the applicant.

6. Once the above conditions are fulfilled, the vehicle may be released to the applicant pending trial. Application stands disposed of in the above terms.

JUDGE