

3

Criminal Miscellaneous Petition No.60/SA (Superdari) of 2020

Case file of Cr. Miscellaneous (Superdari) petition received from the court of worthy D&SJ. Let it be registered.

Or 0102-
01-06-2020

Present:

Petitioner Muhammad Jan, along with Muhammad Anjam Khan

Advocate and Complainant Fazal Akbar

DPP Umar Niaz for State.

Record already before court in connected BBA.

Petitioner **Muhammad Jan** s/o Momeen Khan; r/o Isa Khel, Tappa Mero Khel, Tatanai, Mishti Mela Orakzai, is seeking return of one Messy Ferguson Tractor bearing registration no. C-9560/Kohat. The tractor (vehicle) is in custody of the local police in case FIR No. 38 dated 09-05-2020, u/s 324/34 PPC of PS Lower Orakzai (Kalaya).

The facts of the case are; that the one Nimat Ullah, who was driving the above-mentioned tractor in his fields was fired upon by accused Rahim Ullah, on instance of two other co-accused. Nimat Ullah was injured and later the instant case was registered. The tractor was also hit with a bullet. During the investigation the tractor was produced before the investigating officer by complainant (Fazal Akbar) through recovery memo dated 30-05-2020.

The present petitioner claims to be the real owner of the tractor; he is in possession of original registration book, return file and sale deed in his favor (copies are placed on file). The complainant of the case, Fazal Akbar, who is an uncle of injured and who had produced the tractor before the local police has produced an undertaking before this court on stamp paper. The complainant stated that the present petitioner is the original owner of the tractor and that the complainant of the case has got no objection on handing over of the said tractor to petitioner on superdari (undertaking placed on file).

JAMAL SHAH MAHSUD
District & Sessions Judge
Orakzai Tal. Hattai
Addl. District & Sessions Judge

Arguments heard and record perused. The tentative assessment of which shows that:

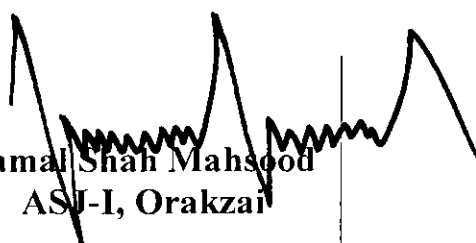
1. The last possessor of the tractor (complainant of the case) has produced undertaking to the effect that the present petitioner is the real owner of the tractor and showed no objection on acceptance of instant petition.
2. No rival claimant of the vehicle has so far come forward.
3. The purpose of superdari is temporary arrangement for custody of property till disposal of criminal case. In the present case the vehicle was required to the local police only for the purpose of investigation. The report in respect of damage to vehicle and pictures of tractor have already been obtained by I.O and available on file.
4. The vehicle cannot be left in police custody for indefinite period, as the same is source of income of the present petitioner.

In light of the above situation the present petitioner is deemed entitled to the superdari of vehicle in question (Tractor-no. C-9560/Kohat).

Resultantly, on acceptance of instant petition, the SHO concerned is hereby directed to hand over the vehicle in question to the petitioner Muhammad Jan, on superdari, subject to furnishing surety bonds from two local and reliable sureties, each in the sum of rupees 100,000 (one lac) to the satisfaction of SHO concerned.

The petitioner shall be bound to produce the vehicle before the local police or any court of law, as and when required. The SHO shall keep copy of surety bonds on record of the case. Let copy of this order be placed on record and the same be returned to the quarter concerned. This file be consigned to Record Room after its completion.

Announced
01-06-2020


Jamal Shah Mahsood
ASJ-I, Orakzai