FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory Jurisdiction)

PRESENT:
Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

FCPLA No. 70-L of 2026
[against the impugned order dated 30.01.2026 passed by Lahore High Court, Lahore in W.P.No.47111 of 2025]

Salman Rafique .... Petitioner (s)

Versus

The State etc. .... Respondent (s)

For the Petitioner (s)	:	Mr. Adnan Ahmad, ASC
For the Respondent(s)	:	Mr. Muhammad Jaffar, Addl. PG Punjab. Mr. Imran Arif Ranjha, ASC with Abdul Waheed Meo Inspector (L), Mr. Aneel Zia, Food Safety Inspector and Muhammad Asghar SI.
Date of Hearing	:	19.08.2026

JUDGMENT

ALI BAQAR NAJAFI, J. Through this petition under Article 175(F(1)(C) of the Constitution of Islamic Republic of Pakistan, a leave to appeal is sought against the impugned order dated 30.01.2026 passed by Lahore High Court, Lahore.

2. Briefly the facts giving rise to the filing of this petition are that the petitioner is owner of vehicle Mazda Truck (DO DGE) Toyota bearing registration No.LES-339, Model 1970, Chasis No.2FQ1015699, Engine No.162434 with power of 3500 CC. An FIR No.4994/2025, dated 24.07.2025 under section 22-A of the Punjab Food Authority Act, 2011 was registered at police station Raiwind City, District Lahore against one Muhammad Waqas and Ikram on the allegation that they transported the adulterated milk. The

vehicle and the milk were taken into possession but the milk was destroyed. However, the petitioner filed an application for *superdari* of the said vehicle which was dismissed by the Magistrate on 31.07.2025 against which a criminal revision was filed which too was dismissed on 06.08.2025 by the Additional Sessions Judge, Lahore on the question of non-maintainability. However, the High Court while deciding the writ petition permitted the *superdari* of the vehicle subject to furnishing surety bond of Rs.50,00,000/- after separating the tanker from the vehicle vide its impugned order, hence this petition.

3. **After hearing** the learned counsel for the parties and perusing the available record, it is apparent at the outset that it is an admitted position that the petitioner is the registered owner of the vehicle in question, which is registered as a truck with the Motor Registering Authority-V, Region-C, Lahore, as confirmed in the reply dated 18.08.2026 submitted before this Court. It has further been brought on record that the registration record contains no entry regarding the installation of any milk tanker/chiller on the body of the truck. It has, however, been pointed out that, under Section 33(1) of the Provincial Motor Vehicles Ordinance, 1965, where a registered vehicle is altered in such a manner that the particulars contained in its certificate of registration cease to be accurate, the owner is required to report such alteration to the registering authority within fourteen days, so that the altered particulars may be incorporated in the official record. Section 33 is reproduced hereunder:

> **"33. Alteration in motor vehicle.—** (1) If a motor vehicle is so altered that the particulars contained in the certificate of registration are no longer accurate, the owner of the vehicle shall within fourteen days of the making of any such alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration of the vehicle to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein:
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> Provided that it shall not be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per

> cent of the weight entered in the certificate of registration.
>
> (2) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority."

The aforesaid provision, however, does not prescribe any consequence for non-compliance therewith. Nor does the record disclose that the alteration or modification made to the Mazda truck, whereby it was equipped with a tanker/chiller for transportation of milk, was contrary to any prescribed standard or otherwise rendered the vehicle unfit for use. Under Section 34(2)(iii) of the Ordinance, the registration of a vehicle may be suspended in the circumstances specified therein, whereas under Section 35(3), the registration may be cancelled if the vehicle is found to be dangerous; such orders are, in turn, appealable under Section 36 of the Provincial Motor Vehicles Ordinance, 1965. By the impugned order, the High Court, while permitting the petitioner to retain temporary custody of the vehicle, being its registered owner and not having been nominated as an accused in the relevant FIR, made such custody subject to the separation of the tanker/chiller from the vehicle. The consideration which prevailed with the High Court was the possibility of recurrence of the offence of selling adulterated milk, punishable under the Punjab Food Authority Act, 2011. It was also observed that the truck constituted an instrument for carrying the adulterated milk from one place to another. However, it cannot be disputed that the tanker/ chiller is capable of being used for the transportation of both pure and adulterated milk. It is, therefore, merely a means of transportation and was not used for the manufacture or preparation of adulterated milk. Nothing on the record establishes that the vehicle in question is capable of being used exclusively for the transportation of adulterated milk.

4. It is by now well settled that temporary custody, or superdari, of a vehicle is ordinarily to be entrusted either to its registered owner,

being the claimant[1], or to the person who was last in possession[2] thereof, with a view to preventing its deterioration or decay and preserving it in a condition in which it remains useful for transportation[3]. In the present case, handing over the vehicle after separating the tanker/chiller may necessarily involve technical and mechanical intervention, which could render the vehicle wholly or substantially unusable. Moreover, leaving the vehicle parked in the open may expose its body to deterioration and damage. In any event, the grant of temporary custody is only an interim arrangement, subject to the final determination of the criminal proceedings, and the person entrusted with such custody remains under an obligation not to make any alteration in the condition of the vehicle which materially affects its value.[3] As regards the apprehension of recurrence of the offence, it is sufficient to observe that, should the vehicle subsequently be found to have been used for any unlawful purpose, the owner shall be liable to face the consequences in accordance with law. Admittedly, the petitioner is neither the manufacturer nor the transporter or driver of the vehicle, nor is he the person who rented it out to the accused persons for commission of the alleged offence. He is, therefore, entitled, under Article 24 of the Constitution of the Islamic Republic of Pakistan, 1973, to enjoy and exercise his ownership rights in respect of the vehicle for lawful purposes. As regards the question whether the tanker/chiller constitutes a utensil or instrument used for the preparation of adulterated milk, punishable under the Punjab Food Authority Act, 2011, it is sufficient to observe that the equipment installed on the vehicle may be employed either for the lawful transportation of milk or for the unlawful transportation of adulterated milk. It cannot, however, be regarded as a tool or component essential to the process of manufacturing or preparing adulterated milk.

5. In view of the foregoing, this petition is converted into an appeal and is **allowed**. The impugned order is accordingly set aside, and the petitioner shall be entitled to retain temporary custody

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[1] Muhammad Akhtar Ali VS. Additional Sessions Judge, Kot Addu, District Muzaffargarh and others **[2023 SCMR 711]**
[2] Munir Ahmad VS. Barkhurdar and 2 others **[1992 SCMR 1454]**
[3] Ahsan Ali Dawach Vs. The State through Chairman NAB and others **[2025 SCMR 1041]**

(superdari) of the vehicle in question in accordance with law, subject to the final decision of the criminal proceedings and without making any alteration therein which may materially affect its condition or value.

CHIEF JUSTICE

Lahore
19.08.2026
"APPROVED FOR REPORTING"
A.Qadoos*

JUDGE

3. After hearing the learned counsel for the parties and perusing the available record, it is straightaway observed that it is an admitted fact that the petitioner is the registered owner of the said vehicle which was registered as a truck before the Motor Registering Authority-V, Region-C, Lahore as reported in the reply dated 18.08.2026 submitted before this court. It was also informed that the record does not reveal any installation of any milk tanker/chiller on the body of the truck. However, it was informed that under section 33(1) of the Provincial Motor Vehicle Ordinance, 1965, if a registered vehicle is altered in such a manner that the particulars of the registration were no more accurate, the owner is required to report the matter to the registering authority within 14 days so that the changed particulars may be entered in the official record. Section 31 is reproduced as under:-

> ***33. Alteration in motor vehicle.***– *(1) If a motor vehicle is so altered that the particulars contained in the certificate of registration are no longer accurate, the owner of the vehicle shall within fourteen days of the making of any such alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration of the vehicle to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein:*
>
> *Provided that it shall not be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent of the weight entered in the certificate of registration.*
>
> *(2) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.*

This section does not describe the consequences of non-adherence to this provision of law. The record does not reflect that the alteration/changes made in the Mazda Truck so as to make it as a

chiller for the transport of milk, was not in conformity with the prescribed standards. Under section 34(2)(iii) of the Ordinance, registration of any vehicle can be suspended if the vehicle was used for the commission of offence with the knowledge of the owner or is found dangerous under section 35(3), its registration can be cancelled which orders are appealable under section 36 of the Provincial Motor Vehicles Ordinance, 1965. The High Court vide impugned order though granted permission to the petitioner to retain the temporary custody being the owner, not made an accused in the said FIR, and subject to its separation from the milk tanker/chiller. The reason prevailed before the High Court was that there was a possibility of repetition of the crime of selling adulterated milk punishable under Punjab Food Authority Act, 2011. It was also observed that the truck was an utensil to carry the adulterated milk from one point to another. However, it is not deniable that the said chiller/tanker can be used for transportation of both pure or adulterated milk, therefore, it is just a means of transportation and was not used for manufacture or preparation of adulterated milk. The record does not reflect that this vehicle can be used only for the transportation of adulterated milk.

4. It is by now well settled that the temporary custody or *superdari* of a vehicle is to be granted either to the registered owner as a claimant[4], or to the last man in possession of the vehicle[5] so as to avoid any decay to the vehicle so that it could remain useful for

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[4] "Muhammad Akhtar Ali VS. Additional Sessions Judge, Kot Addu, District Muzaffargarh and others" ((2023 SCMR 711)

[5] "Munir Ahmad VS. Barkhurdar and 2 others" (1992 SCMR 1454)

the transportation[6]. Obviously, the handing over of the vehicle after separating the tanker/chiller, may involve a technical and mechanical intervention which might render the vehicle wholly useless. The parking of the vehicle out in the open may also cause destruction to the body of the vehicle. Even otherwise, the handing over of the custody of the vehicle is a temporary arrangement which is subject to the final decision of the criminal case and not making any change in the condition of the vehicle which materially affects its value.[3] As far as the apprehension of repetition of crime is concerned, it is suffice to observe that in such an event the owner will face the consequences. Admittedly, the petitioner is neither a manufacturer nor the transporter, a driver of the said vehicle or the one who rented out the vehicle to the accused persons to commit the crime, therefore, under Article 24 of the Constitution of Islamic Republic of Pakistan, he is entitled to enjoy the ownership of his vehicle for lawful purpose. So far the question whether the tanker is a utensil used for the preparation of adulterated milk punishable under the Punjab Food Authority Act, 2011 is concerned, needless to observe that the arrangement installed on the vehicle can be either for lawful use or misuse of the transportation of milk (either adulterated or pure) and was certainly not a tool or a component essential for the process of manufacturing of adulterated milk.

5. In this view of the matter, this petition is converted into appeal and is **allowed**.

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[6] "Ahsan Ali Dawach Vs. The State through Chairman NAB and others" (2025 SCMR 1041)

CHIEF JUSTICE

Islamabad
19.08.2026
NOT APPROVED FOR REPORTING
A.Qadoos*

JUDGE