

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Transfer Application No.S-18 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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09.04.2025.

Mr. Mir Murtaza Abro advocate for applicant.

Mr. Mushtaque Ali Tagar Advocate for Respondent.

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MIRAN MUHAMMAD SHAH, J.- After hearing both the parties it transpired that the ingredients of Criminal Transfer Application are lacking in the present Application. The provisions of Section 526 Cr.P.C are reproduced as under:

526. High Court may transfer case or itself try it.--

- (1) Whenever it is made to appear to the High Court--
- (a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
 - (b) that some question of law of unusual difficulty is likely to arise, or
 - (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or
 - (d) that an order under this section will tend to the general convenience of the parties or witnesses, or
 - (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order--
 - (i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive) but in other respects competent to inquire into or try such offence;
 - (ii) that any particular ¹[xxx] case or appeal, or class of ²[xxx] cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;
 - (iii) that any particular ³[xxx] case or appeal be transferred to and tried before itself; or
 - (iv) that an accused person be [sent] for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court, ¹[xxx] it shall, ²[xxx] observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(3) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if ³[so ordered], pay ⁴[any amount which the High Court ⁵[may under this section award by way of compensation to the person opposing the application].

(6) *Notice to Public Prosecutor of application under this section.* Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of grounds on which it is made, and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

⁶[(6-A) Where any application for the exercise of the power conferred by this section is dismissed the High Court may if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of ¹[compensation] to any person who has opposed the application ²[such sum not exceeding ³[five hundred rupees] as it may consider proper in the circumstances of the case.].]

(7) Nothing in this section shall be deemed to affect any order made under section 197.

⁴[(8) **Adjournment on application under this section.** In any inquiry under Chapter VIII or any trial, the fact that any party intimates to the Court at any stage that he intends to make an application under this section shall not require the Court to adjourn the case; but the Court shall not pronounce its final judgment or order until the application has been finally disposed of by the High Court and if the application is accepted by the High Court, the proceedings taken by the Court subsequent to the intimation made to it shall, at the option of the accused, be held afresh.]

⁵[(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.

⁶[**Explanation.--** Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 344.

(10) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to

the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding ¹[five hundred rupees] that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for application to be made and an order to be obtained thereon.

In light of the such provisions I am of the opinion that case of such transfer is not made out therefore the present Criminal Transfer Application is dismissed. However the concerned SHO is directed to provide protection to the Applicant.

JUDGE

Ali Haider