

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

**Criminal Transfer Application No.S- 03 of 2025**

*Present:*

Mr. Justice Dr. Syed Fiaz ul Hasan Shah

Applicant: Liaquat Ali Rahimoon s/o Jumoon.  
Through Mr. Tahseen Ahmed H. Qureshi, Advocate.

The Respondent: Learned Additional Sessions Judge-I Umerkot & others  
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing: 19.03.2025.

Date of order: 25.04.2025.

**ORDER**

**Dr. Syed Fiaz ul Hasan Shah, J:** The Applicant Liaquat Ali Rahimoon son of Jumoon filed Criminal Transfer Application under section 526 Cr.P.C read with section 561-A Cr.P.C with prayer to pass the order for transfer of the Session Case No.07 of 2025 (Re:The State Vs. Liaquat Ali Rahimoon & others) as well as Criminal Bail Application No.85 of 2025 (Re: Liaquat Ali Rahimoon Vs The State) from the Court of Additional Sessions Judge-I (MCTC) Umerkot to any competent Court of District Umerkot.

2. The Respondent No.03 Asadullah Khoso got registered an FIR bearing crime No.215/2024, under section 302, 120-B, 34 PPC at Police Station Umerkot City against the applicant and other co-accused persons, which is as under;

“on 30-10-2023 the complainant and his father sold their Alto car to Jummon Rahimon for Rs.

32,50,000/-. An agreement (No. 954, dated 30-10-2023) was made, which stated that the remaining amount of Rs. 22,50,000/- was to be paid by 01-11-2024. However, on the due date, Jumoon Rahimon failed to make the payment. The complainant informed Rahimon's friend, Dil Karar Mari (resident of Bhit Bhaiti), about the situation, and he assured that the remaining amount would be paid. On 05-11-2024, at approximately 10:00 AM, the complainant, along with his father, uncle Shahid, and Asif, traveled from Umerkot to Bhit Bhaiti in their car to meet Dil Karar Mari. They reminded Mari about the outstanding payment from Jumoon Rahimon, and he assured them that Rahimon would settle the amount. Mari then left and returned with a gun and a bag. The group then headed back to Umerkot, arriving at Jumoon Rahimon's house on Ratnor Road around 04:30 PM, where they found Jumoon Rahimon (son of Karim), Liaquat (son of Jummon), and an unidentified individual in Jumoon Rahimon's room. Dil Karar Mari sat next to Jumoon, while the complainant's father sat opposite him, and the complainant and others sat on the side chairs. The complainant's father demanded the remaining payment, which caused Jumoon to become angry. The unknown individual locked the door, and Jumoon Rahimon took the gun from Dil Karar Mari, loaded it, and aimed it at the complainant's father with the intent to kill him. The father attempted to defend himself, causing the gun's barrel to lower. However, the gun fired, and the bullet struck the father in his left knee. He screamed in pain and collapsed. As the complainant and others stood up, Liaquat Rahimon pulled out a pistol and

threatened to kill all of them, if they did not sit down. Fearing for their lives, they complied. The complainant's father lost consciousness due to severe blood loss. The accused then unlocked the door, left the room, and got into a vehicle. They drove away toward the city.

The complainant then took his father to the Civil Hospital in Umerkot, where doctors confirmed his death. The incident was reported to the police, who arrived, completed the necessary documentation, and conducted a post-mortem. The body was then taken for funeral rites the following day. Due to the arrival of guests, the ceremony was delayed. The complainant is now submitting this complaint, stating that the accused had premeditated the crime, confined them, and ultimately caused the murder of his father. The complainant requests that justice be served."

3. The applicant has invoked inherent jurisdiction under section 561-A Cr.P.C against the order dated 21.01.2025 passed by the Judicial Magistrate-II Umerkot in Crime No.215/2024 under section 302, 120-B and 34 PPC, registered with PS Umerkot. The learned Judicial Magistrate has taken cognizance. It may be observed that the name of the applicant is mentioned in the FIR and role has been assigned. Subsequently the complainant recorded his statement under section 161 Cr.P.C and has fully implicated the applicant in the murder of his father while direct of evidence of the complainant/eye witness and recovery of crime empties Kartoos as well as weapon sufficient material is available to prosecute and hold the trial against the applicant. The counsel for the applicant states that Presiding Officer Abdul Ghaffar Khoso, learned Additional Sessions Judge-I (MCTC) Umerkot is partial and

applicant has lost trust on Court. The learned counsel draws my attention to paragraph No.05 of the application, which is reproduced as under;

“That the above named Applicant / accused was filed his pre-arrest bail application after obtaining the protective bail from this Honourable High Court appeared before the learned Sessions Court but the same Bail Application No: 958 / 2024 was transferred to the learned Court of Additional Sessions Judge -I / MCTC, Umerkot, but the said bail application was dismissed in non-prosecution vide order dated: 06-02-2025”.

4. In the present matter, the question arises whether this Court can order for transfer of a session case from one Court to another court under Section 526 Cr.P.C. To answer the aforesaid proposition, it is well-settled law that any aggrieved person can file a Transfer Application before this Court under Section 526, Cr.P.C. if there appears reasonable apprehension of injustice being done due to the conduct of the court subordinate to the High Court. The said grievances must be agitated before this Court but should be supported by legal requirements of law. It would be advantageous to go through provisions of Section 526, Cr.P.C. which read as follows:-

“Section 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 case or appeal, or class of 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 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 [...] it shall 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 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 so ordered, pay any amount which the High Court 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 application, together with a copy of the 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.

(6A) When 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 compensation to any person who has opposed the application such sum not exceeding [five hundred rupees] as it may consider proper in the circumstances of the case.”

5. Primarily, the court should practice without discrimination and bias. Justice should be given in such a manner that a clear image of the judiciary has to be maintained in the minds of litigants. The concept of impartiality or bias of a judge has been discussed exhaustively by the Supreme Court in its judgment in the case of the **“Government of NWFP & Another vs. Dr. Hussain Ahmed Haroon & Others”, (2003 SCMR 104)**. It is well-settled law that the transfer of a matter from one court to another could only be granted in exceptional circumstances, where it was shown that the same would be in the interest of justice. Reliance is placed upon the judgment in the case of **“All Pakistan Newspapers Society & Others vs. Federation of Pakistan & Others” (PLD 2012 Supreme Court 1)**.

6. Although the ground taken by the Counsel for the Applicant at paragraph No.5 of the application about dismissal of the Bail Application by the learned Presiding Officer has strongly been denied by the learned Presiding Officer of the Trial Court with

justification that the Counsel for applicant appeared before the learned Trial Court and instead of arguing the bail application, the counsel has stated that the Applicant has taken away case file and for this reasons bail application was rejected as referred in the Comments dated 25.03.2025. Similarly, the Presiding Officer has also denied that he has not influenced to patch up the matter or to pay certain amount.

7. Conversely, the Counsel for the applicant has stated at the bar that he has not given such statement and the Presiding Officer has dismissed the bail application in early morning around 9.30 AM without waiting for call on second round as per prevailing practice in the district Courts. It appears that initially party has obtained protective bail from this Court and thereafter they have surrendered before the Learned Sessions Judge Umerkot and after assigning the Criminal Bail Application No. 958/2024, the said bail application was finally transferred to the learned 1<sup>st</sup> Additional Sessions Judge/MCTC Umerkot for hearing on merit.

8. In summation, adverting to such controversy, its determination needs deep evaluation and investigation which cannot be done without proper inquiry. Correspondingly, it appears that the Applicants have taken tenacious efforts to procure protective bail and subsequent to the grant of protective bail Order from this Court, the present applicant timely surrendered before the trial Court which demonstrate that the dismissal of bail application for non-prosecution on the first date is act of lacking dexterity and anomalous to judicial norms. Looking to the parsimonious jurisdiction and the fact that the case is at initial stage where the charge has not been framed and the learned Presiding Officer has

given No objection for transfer of the case, there would be no prejudice to any party if, the said case is transferred to the competent Court having jurisdiction to try the offence involved in present case.

9. In view of above, the instant Transfer Application is allowed and the learned District & Sessions Judge Umerkot is directed to transfer the aforementioned Sessions case and Criminal Bail Application from the Court of Additional Sessions Judge-I (MCTC) Court to assign it to another competent Court and take all necessary steps to facilitate the transfer of the case and ensure its expeditious handling in the newly transferee Court in accordance with law.

**JUDGE**

***“Adnan Ashraf Nizamani”***