

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

Criminal transfer application No.S-53 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A 3495/17
2. For orders on office objection
3. For orders on M.A 3496/17
4. For Katcha Peshi.

22.05.2017.

Mr. Poonjo Ruplani, Advocate for applicant.

ABDUL MAALIK GADDI, J:

1. Granted.
2. Overruled.
3. Exemption is granted subject to all just exceptions.
4. Through this criminal transfer application the applicant has prayed that this Honourable Court may be pleased to transfer the Sessions Case No.53/2017 (Re: Roopo and others v. The State) in Crime No.03/2017, under Sections 302, 394, 34 PPC of P.S Kario Ghanwar from the Court of learned IInd Additional Sessions Judge, Badin to Sessions Judge Tando Muhammad Khan or Sessions Judge, Hyderabad on the ground that the learned Sessions Judge Badin in very harsh manner granted bail to accused persons who are notorious criminals and involved in dozen of the cases of robbery and dacoity and they are habitual robbers; that the applicant is very poor person and belongs to the Hindu Community while the respondents No.1 to 4 are issuing threats while visiting the Courts in relation of the evidence; that the learned Sessions Judge Badin after granting the bail, transferred the case to the learned Additional Sessions Judge Badin for trial; that the respondents No.1 to 4 after release

on bail, misused the concession of bail and threatened the complainant and his witnesses and they are interfering in the trial hence their bail is liable to be cancelled.

Learned Counsel for the applicant has been heard. During course of the arguments he has reiterated the same facts and grounds as mentioned in the transfer application.

I have carefully examined the contents of the transfer application and documents annexed thereto. I find that the allegations made in the application are vague and general in nature and such type of allegation cannot be made the ground of transfer. I have gone through the case of Shah Jehan v. Special Judge Anticorruption and others reported as NLR 1993 Criminal 35). In my view, while transferring the matter from one court to another, justice should not only be done but should appear to have been done. In such circumstances the presiding officer should equally be protected from frivolous transfer applications in order to achieve transparent even-handed justice so that one of the litigants should not be in a position to overpower the presiding officer which might ultimately result in titling scales of justice under fear and malignity. It is further held in the aforesaid case that, while exercising jurisdiction to transfer of cases from subordinate Courts, balance has to be struck in order to ensure that the cases were not transferred merely on the basis of suppositions, unfounded and conjectural apprehensions. Besides this case is at initial stage. Both parties are resident of same district. No evidence is on record that on which date and time and before whom the accused have issued threats to applicant.

In view of the above circumstances, I am of the view that vague and unfounded allegations have been leveled against the presiding officer which cannot be made basis of transfer of case. Accordingly, transfer application stands dismissed.

JUDGE