

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Transfer Application No.S-11 of 2025

DATE ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on office objection
2. For hearing of main case.
3. For hearing of M.A. No. 1046/2025 (Stay Application)

26.02.2025

Mr. Aamir Mansoob Qureshi Advocate for Applicant.
Ms. Sobia Bhatti, A.P.G.

O R D E R

MUHAMMAD HASAN (AKBER), J.- The instant Criminal Transfer Application has been filed under Section 526 read with Section 561-A Code of Criminal Procedure 1898 for transfer of Sessions Case No.801/2022, emanating from FIR No.26 of 2019 under Section 322 Pakistan Penal Code lodged at PS B-Section Dadu, Sindh; from the Court of learned Additional Sessions Judge Dadu to the Court of learned IV-Additional Sessions Judge/Model Criminal Trial Court, Extension Karachi South.

2. This matter was transferred from the Principal Seat at Karachi to this Circuit Court at Hyderabad based upon the Office Note dated 06.02.2025 by I/C Assistant Registrar (Criminal) placed before the Honourable Chief Justice of the Sindh High Court, whereby the following proposal was approved on 08.02.2025:

a) The annexed Transfer Application may be sent to Circuit Court at Hyderabad to be fixed there according to Roster Sitting.

3. Learned Counsel for the Applicant has pointed out towards pages 95, 97 and 99 of the Court file which are letters dated 01.09.2021,

23.09.2021 and 06.10.2021 respectively, issued by Senior Superintendent Central Prison & Correctional Facility Karachi to the Senior Superintendent of Police, Court Police Karachi emphasizing the high profile nature of the case, and also for providing 'very very strong police guard to the Prison for strict and foolproof security arrangements'. Page 103 was then pointed out being a letter dated 28.09.2021 of Senior Superintendent Central Prison & Correctional Facility Karachi to the Deputy Inspector General of Prisons & Correctional Facilities, Karachi Region requesting therein to move the matter to the Government of Sindh, Home Department, for issuance of Inside Trial Notification of the subject case at Central Prison Karachi, in view of the apprehensions of security risks in proceeding at Central Prison Karachi. Learned counsel thereafter pointed out to letter dated 15.02.2022 issued by the then Member Inspector Team-II of the High Court of Sindh (Mr. Suhail Muhammad Laghari) available at page 109 of the Court file, informing the direction to transfer of the subject case by Order of the Honourable Chief Justice Sindh High from 1st Additional Sessions Judge/Model Criminal Trial Court Dadu, to the Court of learned Additional Sessions Judge-IV Karachi South for jail trial. Accordingly, the matter was transferred. Lastly, attention was drawn towards the Notification dated 20.12.2021 (page 113 of the Court file) whereby the Government of Sindh also notified in this case about jail trial with respect to the co-accused UTP Abdul Raheem Shah son of Abdul Rehman Shah at Central Prison Karachi u/s 9(2) of the Code of Criminal Procedure.

4. Based upon the above activity, Jail Trial was then proceeded against the accused Abdul Raheem Shah (the father of the present Applicant) and who was ultimately acquitted of the charge vide Judgment dated 29.04.2023, copy whereof has been filed at pages 63 to 93 of the Court file.

5. Per learned Counsel, through a recent routine and administrative direction vide letter dated 16.01.2025 (available at pages 105 of the Court file), the present Member Inspection Team-II has conveyed the Order of the Honourable Chief Justice transferring the cases being tried inside Jail, to the respective Courts having jurisdiction, and based whereon, the Record and Proceedings of the subject case has been sent to the Court of 1st Additional Sessions Judge/Model Criminal Trial Court Dadu. Learned counsel states that such Order has affected this particular case where there exist extreme security threat to the Applicant, which were duly considered in the earlier chain of letters and directions, discussed *ibid*. It is further contended that there also exist possibility of conflict of decisions in the matter and the directions of the earlier MIT-II ought to have been taken into consideration while passing the directions dated 16.01.2025. Fundamental right to life; threats to the life of the present Applicant; right to a fair trial under Article 10-A of the Constitution; and strong possibility of conflicting judgments, were other grounds pleaded by the learned Counsel and reliance was placed on 2002 SCMR 709, 2002 SCMR 1562 and 2021 YLR Note 7.

6. Learned APG submitted that she has gone through the entire record, and the earlier directions issued by the Honourable Chief Justice and the then MIT-II, so also the earlier trial and Judgment with respect to the co-accused (father of the present Applicant), and based whereon, submits that the apprehensions and the prayers appear to be genuine.

7. Heard learned Counsel for the Applicant and the learned APG and perused the record through their able assistance. The record shows that due to extreme high profile nature of the case, the trial of the co-accused was specifically directed to be conducted in Jail with high security in order

to avoid any security threat; and based whereon, the trial was completed, culminating into Judgment dated 29.04.2023 whereby the co-accused Raheem Shah was acquitted. The administrative Order for transfer of all matters proceeding trial in Jail would obviously prevail, however in peculiar facts and circumstances of the case in hand, there appears high risk to the life and the rights of the present Applicant, especially when he is on bail and will have to physically appear in Court on each and every date. The documents provided by the Applicant support such version, which have also been concurred by the learned APG.

8. In view of the above, this Transfer Application is allowed and the Sessions Case No.801/2022, which is outcome of FIR No.26 of 2019 under Section 322 Pakistan Penal Code lodged at PS B-Section Dadu, Sindh, is transferred from the Court of learned Additional Sessions Judge Dadu to the Court of learned IV-Additional Sessions Judge/Model Criminal Trial Court, Extension Karachi South for jail trial.

JUDGE