

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Transfer App. No. S – 08 of 2025

(Bahar Lund v. Gaibi @ Aju & others)

Date of hearing : 17.02.2025

Date of decision : 17.02.2025

Mr. Mir Nawaz Kalhoro, Advocate for the applicant

Mr. Ameenuddin Khaskheli, Advocate for the Respondents

Mr. Imran Mobeen Khan, APG

**ORDER**

**Zulfiqar Ahmad Khan, J.** – Through this Criminal Transfer Application under Section 526 Cr.P.C, Applicant has prayed for transfer of Sessions Case Nos.433/2023, arising out of FIR No.134/2023, registered at P.S. Moro, for an offence under Sections 302, 149 PPC, Sessions Case No.417 of 2023, arising out of FIR No.146/2023, for an offence under Section 24 of Sindh Arms Act, 2013 and Sessions Case No.418 of 2023, arising out of FIR No.152 of 2023, for an offence punishable under Section 24 of Sindh Arms Act, 2013, from the Court of learned 2<sup>nd</sup> Additional Sessions Judge to the Court of learned 1<sup>st</sup> Additional Sessions Judge/ MCTC Naushahro Feroze or any competent Court of law having jurisdiction.

2. Learned Counsel for the applicant has contended that the applicant / complainant has worried that he would not get justice because of the accused party's influence and the trial Court's questionable behavior. It is alleged that during hearing of the aforesaid case, the attitude of the learned Presiding Officer is adverse against the applicant/ complainant. Moreover, it is also alleged that the respondents/ accused have approached the learned Presiding Officer of the trial Court; hence, the applicant/ complainant has lost trust in the learned Presiding Officer, and he feels that he will not be given a fair chance to present his case.

3. On the other hand, learned Counsel representing the Respondents/ accused vehemently denied the allegations asserted by learned Counsel for the applicant/ complainant and submits that earlier a Cr. Transfer Application No.59 of 2023 was preferred before this Court by the present applicant/ complainant, which has been decided vide order dated 03.11.2023, whereby, with consent of both the parties, aforementioned Sessions Cases were transferred from the Court

of Additional Sessions Judge, Kandiaro to the Court of 2<sup>nd</sup> Additional Sessions Judge, Naushahro Feroze. He further agitates that the allegations raised by the applicant/ complainant are based upon mere speculation without any substantial evidence. In the end, he prays for dismissal of instant Cr. Transfer Application. Learned DPG also supported the version of Counsel for the Respondents/ accused.

4. Arguments heard. Record perused.

5. From perusal of record, seemingly no any concrete/ tangible evidence appears on record to substantiate the applicant's claim. With regard to the assertion of the applicant / complainant of not receiving justice due to the alleged influence of the accused party and the purported objectionable attitude of the learned Presiding Officer of the trial Court is apprehensive, and such apprehensions must be substantiated with credible evidence. Mere speculation does not suffice to warrant a transfer. Secondly, the assertion of the applicant/ complainant that he has lost faith in the learned Presiding Officer also lacks a factual basis unless supported by specific instances of judicial misconduct or unfair treatment. Thirdly, present applicant/ complainant had earlier filed an application for transfer of aforementioned Sessions Cases from the Court of Additional Sessions Judge, Kandiaro, which was disposed of with the consent of both the parties, and the case files were withdrawn from the Court of Additional Sessions Judge, Kandiaro and transferred to 2<sup>nd</sup> Additional Sessions Judge, Naushahro Feroze. Regarding fair opportunity, the applicant / complainant is required to provide specific instances illustrating the denial of such an opportunity, rather than relying on general statements.

6. In the circumstances at hand, instant application for transfer seems to be meritless and is accordingly **dismissed** along with pending application(s). The trial Court is, however, directed to proceed with the cases ensuring adherence to the principles of natural justice and fair opportunities of hearing.

J U D G E