IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Criminal Transfer Application No.S-63 of 2024.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE

Applicants: (1). Mobeen Khan
(2). Mudasar ali (Minor/Juvenile Offender)
(3). Israr Ahmed, all sons of Rehmatullah by caste Siming Through, **Mr.Ghualm Murtaza Buriro Advocate**

Respondent No.2: Muhammad Mubeen S/O Muhammad Hassan Siming. Through **Syed Ali Murtaza Shah Advocate.**

The State: Through,
Mr. Shafi Muhammad Mahar, D.PG.

Date of hearing & order: **05.11.2026**.

Suresh Kumar J:- Through this Criminal Transfer Application, the applicants/accused named above seek transfer of Session Case No.489/2025 (The State v.Rehmatullah and others) bearing Crime No.85/2025 Offences U/Ss 302, 120-B PPC registered at PS, B-Section Khairpur, from the Court of learned 1st. Addl. Sessions Judge/MCTC, Khairpur to any other Court having jurisdiction.

2. The relevant facts leading to the instant Criminal Transfer Application, in summary, are as follows: Respondent No. 2/complainant lodged an FIR on 16.02.2025, stating that the accused, Mudasar Ali and Asrar Ahmed, took his son, Muhammad Moin, for work. Subsequently, the complainant and witnesses heard cries and went to the location, where at 10:00 PM, they observed, using a torchlight, that the nominated accused, with the assistance of two unknown culprits, were strangulating Muhammad Moin with a rope, holding the deceased by his arms and legs, which resulted in his murder. Upon noticing the complainant party approaching, the accused fled the scene. Thereafter, the complainant reported to the police

station, where he lodged the FIR. Following the usual investigation, the case was assigned to the trial court, specifically the 1st Additional Sessions Judge/MCTC, Khairpur, where the case was pending trial. Subsequently, this Court directed the trial court to examine the eyewitnesses within two months of receiving the order dated 14.09.2026, passed in Crl. Bail Application No. S-576 of 2026. However, during the trial, the learned counsel for the applicants/accused sought adjournments, leading the learned Presiding Officer to appoint an advocate for the pauper accused. Consequently, the applicants lost confidence in the trial court, prompting them to file the instant Criminal Transfer Application.

3. After the filing of this application, a notice was issued to the respondents as well as to the learned DPG, and comments were called from the learned 1st. Addl. Sessions Judge/MCTC, Khairpur .

4. I have heard the applicants/accused, learned counsel for respondent No.2, so also learned DPG for the State.

5. The learned counsel for the applicants/accused has contended that the learned Presiding Officer appointed an advocate for the pauper accused in the presence of the defense counsel. He has also argued that the actions of the learned Presiding Officer have prejudiced the applicants/accused and that they cannot expect a fair and impartial trial in light of Article 10-A of the Constitution of Pakistan, 1973. Lastly, he has asserted that the applicants/accused have lost confidence in the Court; therefore, the session case referred to above should be transferred from the trial court to another court having jurisdiction.

6. Conversely, the learned counsel for respondent No. 2/complainant has strongly opposed the transfer of the case on the

grounds that the counsel for the applicants/accused avoided proceeding with the matter on the prescribed date of hearing and sought adjournments, therefore, the trial court rightly appointed an advocate for the pauper accused. He has also contended that this Court directed the trial court to examine the eyewitnesses within two months of receiving the order dated 14.09.2026, passed in Crl. Bail Application No. S-576 of 2026. Lastly, he has asserted that the present transfer application has been filed solely to cause delay; therefore, the transfer application may be dismissed.

7. The learned DPG has also adopted the same arguments of learned counsel for complainant and also prayed that transfer application may be dismissed.

8. Having given due consideration to the arguments advanced by the learned counsel for the respective parties and having perused the relevant record, it is evident that the present transfer application has been filed on the grounds that the trial judge is either prejudiced or biased against the applicants/accused, as he appointed an advocate for the pauper accused in the presence of the defense counsel. A review of the available record reveals that this Court directed the trial judge to record the ocular evidence within a period of two months from the receipt of the order dated 14.09.2026, passed in Crl. Bail Application No. S-576 of 2026. The learned trial judge has not committed any illegality in appointing the advocate for the pauper accused, as the record indicates that the defense counsel for the applicants/accused has been continuously seeking adjournments to cause delay in the trial. No other substantive material has been presented to suggest that the learned Sessions Judge is either

prejudiced or biased against the applicant/complainant, which would justify the transfer of the case. The apprehension of bias cannot be equated with judicial bias based solely on presumption. Reference in this case can be made to Full Bench of this Court in the case of **Syed Tahir Hussain Mehmoodi and others v. Tayyab and others (PLD 2009 Karachi 176)**.

9. The concept impartiality or bias of a Judge has been discussed exhaustively by the Honourable Supreme Court in its judgment in the case of **Government of NWFP & Another v. Dr. Hussain Ahmed Haroon & Others, reported as 2003 SCMR 104**, and the present matter does not merit favorable consideration upon the anvil of the said judgment.

10. 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 v. Federation of Pakistan & others reported as (PLD 2012 Supreme Court 1).** There same is prima facie not the case in the present matter as no exception circumstance are born out from the available record.

11. In view of the foregoing, I am of the considered opinion that the instant Criminal Transfer application is not maintainable and is even otherwise devoid of merits hence the same is hereby dismissed.

J U D G E