

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Transfer App. No. S - 34 of 2023

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

Hearing of case

1. For orders on office objection at Flag-A
2. For hearing of CMA No.2780/2023 (Stay)
3. For hearing of main case

22.05.2023

Mr. Shabbir Ali Bozdar, Advocate for the applicant.
Mr. Abdul Baqi Jan Kakar, Advocate for respondent No.2.
Mr. Imran Mobeen Khan, Assistant Prosecutor General.

-.-.-.-.-

1. By filing instant Criminal Transfer Application, the applicant has sought transfer of Post-Arrest Bail Application No.915 of 2023 (*Re: Ali Sher versus The State*), arisen out of Crime No.02 of 2023 registered at Police Station Pipri, District Naushahro Feroze under Sections 302, 324, 114, 504, 148, 149, 337-F(i), 337-H(2), P.P.C., from the Court of learned 2nd Additional Sessions Judge, Naushahro Feroze to the Court of learned Additional Sessions Judge, Kandiaro or any other Court having jurisdiction.
2. Heard the learned counsel for the parties and perused the material available on record.
3. It appears that the sole ground taken by learned counsel for the applicant for transfer of the aforesaid bail application is that the learned 2nd Additional Sessions Judge, Naushahro Feroze has already granted bail to co-accused Muhammad Ameen and Sajjad Hussain. It is for that reason the applicant has lost confidence upon the said Presiding Officer as he has great apprehension that the present respondent/accused will also be granted bail by depriving the applicant from justice.
4. It may be observed here that transfer of case from one to another Court cannot be claimed by the applicant(s) as a matter of right or cannot be granted as a matter of routine and the Court before whom the

application for transfer is moved has to see whether mistrust shown by the applicant is genuine or otherwise. Besides, while exercising jurisdiction to transfer cases from Courts, balance has to be struck in order to ensure that the cases are not transferred mainly on the basis of unfounded and conjectural apprehensions. It may also be observed here that the Presiding Officers of the Courts have to be given full protection against frivolous allegations in view of the honourous, noble and dignified duty they are performing and while deciding the cases they should not be allowed to be harassed unnecessarily by the litigants to mainly entertain groundless and baseless apprehensions.

5. So far earlier bail granting order passed in favour of co-accused is concerned, suffice it to say that the orders/judgments wrong in law or improper passed on disobedience of statutory provision of law or in violation of rules or procedure or against the party seeking transfer of the case in earlier matter, have never been accepted as valid basis for transfer of cases, unless circumstances attending passing of such orders are capable of raising a reasonable apprehension in the mind of a party that justice would not be done to him. Something more than a mere wrong order/judgment is required to justify such transfer so as to create a reasonable apprehension in the mind of the party concerned of not getting fair and impartial trial. Even otherwise, if the respondent/accused is granted bail, such order can be challenged by the applicant by filing application for cancellation of the same.

6. For the foregoing facts and reasons, no case for transfer of the bail application is made out; therefore, this criminal transfer application being devoid of any merits is **dismissed** along with listed application, with no order as to costs.