

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Transfer Applicant No. 30 of 2023

Date	Order with signature of Judge
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1. For orders on Misc. No. 13375/2023.

THEN

2. For hearing of Main Case.

Order issued to learned trial Court for report.

Report of learned trial Court at 'X'

Case fixed by the Roster Branch for 20.11.2023

13.11.2023:

Mr. Ajab Khan Khattak, advocate for the applicants.

Mr. Talib Ali, Additional Prosecutor General Sindh.

1. Granted.

2. The above Criminal Transfer Application filed under Section 526(e) Cr.P.C. read with Section 28, 7 A Anti-Terrorism Act, 1997, whereby, the applicants have prayed for transfer of Special Cases No. 41/2018; 41-A/2018; 41-B/2018; 41-C/2018; & 41-D/2018, numbered subsequently as new Special Cases No.4/2022; 4-A/2022; 4-B/2022; 4-C/2022; & 4-D/2022 from ATC-II, Sukkur to any ATC Court at Karachi on the grounds that the case property is lying at Malkhana of ATC at Judicial Complex, Karachi, whereas, all the UTPs are confined at Central Prison, Karachi excepting one, namely, Muhammad Wazir Hussain @ Rehan, who is confined at Central Jail, Sukkur on the order of the Home Department, Government of Sindh. It is urged that entire case property is to be shown to the accused persons during the Statement under Section 342 Cr.P.C.

2. It has been argued by the learned counsel for the applicants that the above cases were transferred from ATC-V, Karachi to ATC-II, Sukkur on reference administratively moved by the ATC Court-V, Karachi, pursuant to a Notification vide No.HD(PRS-II)8-88/2021 dated 29.11.2021 issued by the Home Department, Government of Sindh, whereby, venue of the trial of the UTP, Muhammad Wazir Hussain @ Rehan, was changed from Central Jail, Karachi to Central Prison, Sukkur, without assigning any valid reason, whereas, all the applicants and their counsels belonging to Karachi are facing serious inconvenience to proceed with the matter, which is pending for last six years. It is also stated that three applicants/accused are confined at Central Prison, Karachi. It has therefore been prayed that in order to avoid further inconvenience and delay in conclusion of the proceedings, the above cases may be transferred from ATC-Sukkur to any ATC at Karachi.

3. Notices were issued to the Prosecution, pursuant to which, learned Addl. P.G. submits that though arrangement can be made for showing the case property through video link, however, all the UTPs are confined at Central Prison, Karachi except one Muhammad Wazir Hussain @ Rehan and their advocates are based at Karachi, therefore, report may be called from ATC-Sukkur.

4. Accordingly, report was called from Anti-Terrorism Court-II, Central Prison, Sukkur, which report has been received vide letter No.ATC-II/178 of 2023, wherein, the contentions of the learned counsel for the applicants have not been disputed and the Presiding Offiver, Anti-Terrorism Court-II, Sukkur has extended no objection in the following terms:-

“That through video conference case property can be shown to the accused persons and their Advocate but they cannot touch the substance. This Court has no reservation if the cases are withdrawn and are transferred to any ATCs at Judicial Complex Karachi.”

5. Keeping in view the above facts and particularly confinement of applicants at Karachi, fact that case property is lying at Karachi which is to be confronted to accused persons confined at Karachi, instant Criminal Transfer Application is allowed and consequently, the cases mentioned at para-2 are withdrawn from Anti-Terrorism Court-II, Central Prison, Sukkur and transferred to Anti-Terrorism Court – V, Karachi.

Instant Criminal Transfer Application stands disposed of in the above terms.

ACTING CHIEF JUSTICE

A.S.