

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Transfer Application No.54 of 2024

Date	Order with signature of Judge
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For hearing of main case

For hearing and Order:- 08.07.2024

Mr. Kashif Khan Tanoli advocate for the applicant.
Ms. Abida Parveen Channar, Special Prosecutor ANF

ORDER

Adnan-ul-Karim Memon, J:- The applicant Adnan is seeking transfer of Special Case No. 79 of 2022 (re-The State v Adnan@Sameer) from the Court of CNS-II to CNS III, inter-alia on the ground that the trial court is lying vacant for a longer period. Besides that fair and speedy trial is the right of the accused which under jeopardy due to the non-availability of the presiding officer of the special Court CNS-II. He argued that there is no progress in the trial in that Court in such circumstances judicial propriety demands that the aforesaid case may be transferred to another CNS Court-III having jurisdiction for a smooth trial of the accused. He prayed for allowing the transfer application.

2. The learned special Prosecutor has no issue if the special case is transferred to the CNS Court-III for further proceedings in the matter on merits. Learned Special Prosecutor submitted that earlier the subject case was disposed of by way of the judgment dated 05.04.2024 where the applicant was acquitted of the charge thereafter prosecution filed an interim challan under Sections 3 & 4 of Anti Money Laundering Act 2010 on 18.05.2024 against the applicant who has obtained interim bail. The Presiding Officer's tenure was completed on 23.04.2024 and the Court at present is lying vacant

3. I have heard the learned counsel for the parties on the issue of the instant transfer application and have perused the material available on record.

4. Primarily, Justice can be achieved only when the court deals in the presence of both parties and the court has the power to move cases from one court to another. But the rights of the parties cannot be curtailed, controlled, or interfered with subject to exceptions provided under the law. 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 vs. Federation of Pakistan & Others* **PLD 2012 Supreme Court 1.**

5. Prima facie the ground raised by the learned counsel for the applicant is tenable based on the reason the trial court is lying vacant since long as such there is no progress in the trial of the applicant in that Court which amounts to keeping the accused behind the bar for indefinite period without trial; in such circumstances, he intends to seek a fair and speedy trial in the criminal case pending adjudication, which is only possible if he the trial court proceeds with the matter. However, in the best interest of justice, coupled with the instance taken by the learned special prosecutor, it would be appropriate for a speedy trial of the case. In such circumstances, judicial propriety demand that Special Case No. 79 of 2022 arising out of FIR 26/2022 pending adjudication before the Court of CNS-II Clifton Karachi needs to be transferred to the Court of CNS-III for the smooth and speedy trial of the applicant.

6. Before parting with this order I expect from the learned CNS Court III for swift disposal of the aforesaid sessions case within a reasonable time and in the meanwhile ensure that the trial is fair in all respects.

7. In view of the above Criminal Transfer Application is disposed of along with the pending application(s).

JUDGE