

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Crl. Transfer Application No.31 of 2024

Date

Order with signature of Judge

FRESH CASE:

1. For order on MA No.3649/2024 (Exemption).
2. For hearing of main application.

Dated; 1st April 2024

Mr. Muhammad Ather, Advocate for Applicant.

Ms. Aisha Saeed, A.D.P.P. for the State.

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1. Exemption granted subject to all just exceptions.
2. Through instant Crl. Transfer Application filed under Section 27 of the Anti-Terrorism Act, 1997 read with Section 526, Cr.P.C. the applicant, who is one of the accused in Special Case No.443 of 2023 emanating from FIR No.202/2023 registered at Police Station Gabol Town, Karachi, under sections 324, 384, 385, 386, PPC read with Section 7 of the Anti-Terrorism Act, 1997 and Section 25-D of the Telegraph Act, 1885 pending before Anti-Terrorism Court No.XIII at Karachi may be transferred to the Anti-Terrorism Court No.V at Karachi on the ground that since the nature of offences and the accusation against the applicant/accused are same, therefore, in order to avoid conflicting order and/or inconvenience to the applicant/accused and their counsel instant Special Case may be transferred. It has been further contended by the learned counsel for the applicant that different date was given to the applicant on both the cases, which is very inconvenient to the applicant and their counsel.

Conversely, Ms. Aisha Saeed, A.D.P.P. appearing on behalf of the State, has vehemently opposed the aforesaid request of the applicant and has referred to the provisions of Section 28 of the Anti-

Terrorism Act, 1997, and submits that only in exceptional circumstances when there is apprehension and serious threats to the life and wellbeing of accused and the witnesses, such request for transfer of case from one Court to another Court can be considered and acceded, whereas, in the instant case, no such ground has been agitated, which may attract the provision of Section 28 of the Anti-Terrorism Act, 1997. Per A.D.P.P, the ground for inconvenience of the accused, who is required in two different FIRs registered in two different police stations, accused persons and witnesses are also different, whereas, the appearance of the applicant/accused in two different Courts having jurisdiction, cannot in any manner be treated as inconvenience, therefore, instant Crl. Transfer Application is totally misconceived and liable to be dismissed.

Heard the learned counsel for the applicant and the learned A.D.P.P. and perused the record with their assistance and have also examined relevant provisions, including Section 28 of the Anti-Terrorism Act, 1997, which reflects that prima facie, no case has been made out by the applicant/accused, who is one of the accused in the aforesaid FIR, whereas, no other accused persons or the witnesses have come forward to express any ground for seeking transfer of the case from Anti-Terrorism Court No.XIII at Karachi to Anti-Terrorism Court No.V at Karachi, therefore, such request is not tenable in law and the circumstances of the instant case. Moreover, in two different FIRs of different police station, having different co-accused persons and witnesses the trial has to proceed in the Court having jurisdiction over the case, whereas, separate judgment has to be passed in accordance with law.

Accordingly, instant Crl. Transfer Application is misconceived and hereby dismissed in limine alongwith listed application. The

applicant, however, may be at liberty to make request before the Anti-Terrorism Court No.XIII at Karachi for a common date when both the cases of the applicant are fixed in the Court, which request of the applicant may be examined by the respective Anti-Terrorism Court at Karachi in accordance with law.

CHIEF JUSTICE

Farhan/PS
