

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Cr. Transfer Appln. No.S-65 of 2024

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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08.11.2024.

1. For orders on M.A. No.5986/2024.
2. For orders on office objection.
3. For orders on M. A. No.5273/2024.
4. For hearing of Main Case.

Mr. Abid Hussain Kalhoro, advocate for the applicant.

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Applicant/complainant Munawar Ali Solangi has sought the transfer of Sessions Case No.329/2022 re-The State v. Mehran Dahar & others, based on Crime No.51/2022 registered at PS Nasirabad, u/s 324, 114, 34, PPC, on the ground of bias and harsh behaviour/conduct of learned Presiding Officer.

2. The learned Counsel has alleged that the Presiding Officer's conduct has created reasonable apprehension and bias and has adversely impacted his impartiality. Additionally, the Counsel argued that no notice was given by the Presiding Officer while deciding the bail application No.40/2023. Per learned Counsel, in such circumstances, the applicant has great apprehension and disappointment that he cannot meet justice equitably. Due to such circumstances, he has lost faith and confidence over the learned Presiding Officer. Counsel relied upon the case law reported in 2024 YLR 787.

3. Considering a criminal transfer application under Section 526 of the Cr.PC, the applicant must demonstrate that the judge's action and demeanour have created a reasonable apprehension of bias, which can adversely impact the fairness and impartiality of the trial. Instances of bias might invoke the judge making prejudicial, showing undue favour or animosity towards either party or making a decision that proportionately disadvantages the applicant. Furthermore, harsh behaviour can encompass a judge's unjustified reprimand, derogatory comments or any conduct that intimidates or demeans the applicant, thereafter undermining the applicant's right to appear fair. The applicant should provide examples and evidence to substantiate these claims, including the case diaries of the proceedings, an affidavit from the applicant, or any other document highlighting the judge's inappropriate conduct. The overarching goal is to establish that the judge's bias and harsh behaviour have compromised the integrity of judicial proceedings, warranting

the transfer of the case to any other Court where he can expect fair and unbiased adjudication.

4. In light of the above discussion, the applicant has failed to provide any concrete evidence or case diaries of the Court proceedings to substantiate the above allegation and behaviour of the learned Presiding Officer. No such affidavit or other documentary evidence was produced by him that could support the allegation made by the applicant. Without tangible evidence, this Court cannot ascertain the veracity of the allegations against the learned Presiding Officer. It is a fundamental principle of justice that the allegation of bias must be supported by clear and convincing evidence. Mere allegations without substantiation are insufficient to warrant the transfer of the case. Additionally, the arguments of learned Counsel that no notice was given to the applicant by the Presiding Officer while deciding Bail Application No.40/2024; however, on perusal of the order available on page 09 of the Court file, it appears that the complainant was present and he had notice. Even though he engaged a counsel and the arguments had been advanced, it cannot be said that the opportunity for a fair trial was not provided to him. Therefore, the argument of learned Counsel is untenable and misconceived.

5. In light of the above discussion, the instant criminal transfer application, being devoid of merit and misconceived, is **dismissed** in *limine* along with the listed applications.

JUDGE

Qazi Tahir PA/\*