

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Transfer Application No.71 of 2026

Date

Order with Signature(s) of Judge(s)

- 1.For orders on office objection.
- 2.For hearing of case.

17.08.2026

Mr. Ali Gohar Masroof, Advocate for applicant.
Mr. Waseem Gul, Advocate for respondent No.1.
Mr. Abrar Ali Khichi, Additional Prosecutor General.

Through the instant Criminal Transfer Application, applicant/ complainant seeks transfer of Criminal Appeal No.6/2026 from the Court of IVth Additional Sessions Judge, Malir-Karachi to any other Court of Additional Sessions Judge, Malir-Karachi.

Learned counsel for the applicant/complainant contends that the aforementioned Criminal Appeal was preferred by the respondent No.1/convictee on 15.07.2026 against the judgment passed by the learned XIth Judicial Magistrate Malir, Karachi, whereby he was convicted for the offence punishable under Section 489-F, P.P.C., and sentenced to suffer R.I for three (03) years with a fine of Rs.40,000/-, and in default thereof to suffer S.I. for three (03) months. He further contends that alongwith Criminal Appeal, the respondent No.1 also filed an application under Section 426, Cr.P.C., for suspension of the sentence, which was granted by the Appellate Court on the very next day i.e. 16.07.2026 without issuing notice to applicant. Hence, the applicant has lost confidence in the Presiding Officer of the Appellate Court and he seeks transfer of the Criminal Appeal.

On the other hand, learned Addl. Prosecutor General as well as learned counsel for respondent No.1 maintain that the application of respondent No.1 under Section 426, Cr.P.C. was decided by the Presiding Officer of the Appellate Court after hearing the State and in the light of the dictum laid down in the case of *Tariq Bashir Vs. The State* (**PLD 1995 SC 34**) and *Muhammad Rafiq Vs. The State* (**2020 SCMR 1101**), and there appears no illegality or irregularity in the order creating any mistrust in the mind of the applicant.

Heard and recorded perused.

It is an admitted position that the applicant being aggrieved by the order dated 16.07.2026, whereby the Appellate Court suspended the sentence of the respondent No.1 under Section 426 Cr.P.C., has filed the instant Criminal Transfer Application. Perusal of the aforementioned order of the Appellate Court shows that the sentence of the respondent No.1 was suspended by the Appellate Court by observing that the same is a short-term conviction. The respondent No.1 was on bail during the trial and the main appeal is likely to take some time. Apparently the aforesaid order has been passed by the Appellate Court keeping in mind the parameters laid down by the Superior Courts for the suspension of the sentence awarded to the convict; against that the applicant has legal remedy if he feels himself dissatisfied or aggrieved. However, the same cannot constitute a valid ground for transfer of a Criminal Appeal merely on the basis of an alleged lack of confidence in the Presiding Officer. Even if an order passed against the party is wrong, improper or in violation of law, it is not always a valid ground for transfer of a case, unless it is shown that it is a biased order.

It may be observed that self-procured mistrust and expression of no confidence in Court cannot be encouraged to transfer case from Trial Court particularly where no allegation of partisanship for reason of any type of adverse interest is proved.

The instant Criminal Transfer Application is; therefore, dismissed being devoid of any merit.

CHIEF JUSTICE