

THE HIGH COURT OF SINDH, CIRCUIT HYDERABAD

Crl. Transfer Application No. S-59 of 2025

Applicant: Kashif Ali son of Mumtaz Ali Channa
Through Mr.Muneer Ahmed Channa, Advocate

The State: Through Ms.Rameshan Oad, D.P.G.
[Respondent No.1]

Nemo for respondents No.2 to 5

Date of Hearing: 24-08-2026

Date of Order: 24-08-2026

ORDER

ABDUL MOBEEN LAKHO-J, Through this application under section 526 Cr.P.C, the applicant seeks transfer of Sessions Case No.655 of 2024 (arising out of Crime No.108 of 2024 of P.S. Khairpur Nathan Shah, under Sections 302, 324, 452, 334, 109, 148, 149, 504 and 337-A(i), F(iii) PPC) and Sessions Case No.820 of 2025 (arising out of Crime No.160 of 2025 under section 25 Sindh Arms Act, 2013), pending before the Court of learned IV-Additional Sessions Judge, Dadu, to any other competent Court at Hyderabad/Jamshoro.

2. The comments were called from the learned trial Court, wherein it is reported that accused Sajjad Ali is in custody whereas the remaining accused have been declared proclaimed offenders. It has further been reported that the complainant party has not been regularly attending the proceedings after framing of charge. However, the learned trial Judge has categorically stated that he has no objection if the cases are transferred from his Court.

3. Record reflects that Crime No.108 of 2024 was registered regarding the murder of applicant's brother and injuries caused to another person. During investigation some accused remained absconders and were declared proclaimed offenders. Subsequently, accused Sajjad Ali was arrested and on his pointation the alleged weapon was recovered, leading to registration of

Crime No.160 of 2025 under the Sindh Arms Act. Both matters are presently pending before the learned IV-Additional Sessions Judge, Dadu.

4. Learned counsel for the applicant contended that the accused persons are influential persons of the locality; that the complainant and prosecution witnesses have been receiving threats and intimidation for withdrawing from the case; that applications were also submitted before police authorities for protection; that due to persistent threats the applicant shifted his residence to Hyderabad along with his family and that under the prevailing circumstances the complainant and witnesses genuinely apprehend danger to their safety if they continue to attend the proceedings at Dadu. It is argued that transfer of the cases would be conducive to a fair free and fearless trial.

5. Learned Deputy Prosecutor General, while opposing submitted that the paramount consideration is advancement of justice and protection of the integrity of the trial process. She left the matter to the discretion of the Court, otherwise no legal right has been violated.

6. I have heard learned counsel for the applicant and learned D.P.G for the State and examined the available record.

7. The scope of section 526 Cr.P.C. is not confined to cases involving actual bias on the part of the Presiding Officer. The provision is meant to ensure that the administration of justice remains fair, impartial and free from circumstances which may reasonably create fear, insecurity or inconvenience to the parties and witnesses. In case of **Muhammad Nawaz v. Ghulam Qadar (PLD 1973 SC 327)**, the Honourable Supreme Court held that while dealing with a transfer request, the Court has to examine whether the apprehension entertained by a party is reasonable in the facts and circumstances of the case and whether transfer would promote the ends of justice. It is equally well settled that justice should not only be done but should also appear to have been done.

8. In the present case, the record reflects that the case arises out of a murder occurrence resulting in the death of the complainant's brother and serious injuries to another person. The applicant has consistently maintained that he and the prosecution witnesses have been receiving threats from the accused side and due to such circumstances, he shifted his residence from District Dadu to Hyderabad. The material available on record *prima facie* shows that representations were also submitted before the police authorities regarding arrest of absconding accused persons and protection of the complainant party.

9. Another important aspect of the matter is that accused Sajjad Ali, who is facing trial in both connected cases, is presently confined in Central Prison, Hyderabad and is being produced before the trial Court at Dadu from Hyderabad Jail. The complainant party is also presently residing at Hyderabad. Thus, for every date of hearing, both sides are required to travel between Hyderabad and Dadu. Considering the nature of the allegations, the admitted hostility between the parties and the fact that some co-accused are stated to be proclaimed offenders, it cannot be ruled out that movement of the parties and their supporters to and from the trial Court may create an atmosphere conducive to an untoward incident, resulting in breach of peace or even bloodshed. The Court is not expected to wait for an unfortunate occurrence to take place before adopting measures necessary to preserve orderly administration of justice.

10. Significantly, the learned IV-Additional Sessions Judge, Dadu, in his report has stated that despite repeated processes, the prosecution evidence has not commenced and no substantial progress in recording of evidence has yet taken place.

11. In these circumstances, without casting any reflection upon the fairness, competence or impartiality of the learned trial Judge, I am satisfied that transfer of the cases would serve the convenience and security of the

parties and witnesses and would also advance the ends of justice contemplated under section 526 Cr.P.C. The apprehension expressed by the applicant cannot be said to be wholly imaginary or devoid of substance. To ensure a fair, free and peaceful trial and to avoid any possibility of law and order complications or bloodshed between the rival parties, it is appropriate that both connected cases are transferred to a Court at Hyderabad.

12. Consequently, the present Criminal Transfer Application is **allowed**. Sessions Case No.655 of 2024 arising out of Crime No.108 of 2024 of P.S. Khairpur Nathan Shah, District Dadu and Sessions Case No.820 of 2025 arising out of Crime No.160 of 2025 under section 25 of the Sindh Arms Act, 2013, presently pending before the Court of learned IV-Additional Sessions Judge, Dadu, are hereby withdrawn and transferred to the Court of Sessions Judge, Hyderabad, who shall either try the cases himself or entrust the same to a Court of competent jurisdiction under his administrative control in accordance with law. The learned trial Court shall transmit the entire record forthwith through the learned Sessions Judge, Dadu.

JUDGE

AHSAN K. ABRO