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2026:PHHC:013845



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Dinesh Chand Bansal

....Petitioner

V/s

State of Haryana and another

....Respondents

Date of Reserve: 21.01.2026**Date of decision: 30.01.2026****Date of Uploading :30.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
 Mr. Pratham Sethi, Advocate for the petitioner.
 Ms. Mahima Yashpal Singla, Senior DAG Haryana.
 Mr. Rohit Kaushik, Advocate
 for respondent No.2/complainant.

SUMEET GOEL, J.

1. The *petition in hand* has been preferred by the petitioner under Section 528 read with Section 447 of BNSS, 2023 laying challenge to the order dated 08.08.2025 (hereinafter referred to as *impugned order*) vide which an application preferred by the petitioner (herein) under Section 448 of BNSS, 2023 (erstwhile Section 408 of Cr.P.C.), (hereinafter referred to as *application in question*) for transfer of his case from the Court of current learned Presiding Judicial Officer, has been dismissed.

2. The relevant factual backdrop of the *lis in hand* is adumbrated thus:

(i) A criminal complaint under Section 500 IPC was filed by respondent No.2 (herein) before Judicial Magistrate, Panchkula, Haryana. The essence of the complaint, as set out in the petition, is that the complainant (respondent No.2 herein) is a well-known and respected businessman in the pharmaceutical and healthcare sector and has also served

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as District Governor of Rotary International, District 3080 for the year 2017–18. The complainant was unanimously nominated for the post of District Governor for the year 2017–18 and was duly appointed by Rotary International after the nomination process was found to be valid. It has been alleged that the accused (petitioner herein), who was a rival candidate, & was dissatisfied with his defeat, started initiating repeated objections, complaints and litigation to challenge the selection of the complainant. Despite multiple reviews by the Rotary International, the accused (petitioner herein) continued filing civil suits and appeals before the Courts. It has been further alleged that the actions of the accused (petitioner herein) were found to be without merit and several cases were dismissed with adverse observations against him. As the accused (petitioner herein) had approached the Courts without exhausting the Rotary International's internal remedies, his Rotary Club membership was eventually terminated in accordance with Rotary policy. Subsequently, the accused (petitioner herein) got an FIR registered through another person alleging tampering of ballots, in which the complainant was summoned. Thereafter, the complainant complied with the directions of the Court and was extended the concession of bail on the same day as per the orders of the Hon'ble Uttarakhand High Court. Furthermore, with the intention to harm the reputation of the complainant, the accused persons conspired together and circulated a misleading and false letter among Rotary members and WhatsApp groups. It has been alleged therein that the complainant was taken into custody in order to create a false and damaging impression. On the account of the same, the complainant got distressed as also demands for clarification and pressure from Rotary officials. It has been further alleged in the complaint that the accused had no

authority or locus to circulate such communication especially when his Rotary membership had already been terminated. As per the complainant, the deliberate circulation of false and defamatory material had caused irreparable damage to his reputation, dignity and standing in society as well within the Rotary International which necessitated him to file the instant complaint seeking prosecution of the accused under Section 500 IPC and compensation for the loss suffered due to their malicious and defamatory acts.

(ii) The *application in question* was filed by the petitioner (herein), seeking transfer of trial arising out of the above-said criminal complaint, relevant whereof reads thus:

“5. *That the applicants are more than 88 years old and suffering from several ailments i.e. knee, liver, kidney and heart problems and living around 250 KM away from Panchkula at Dehradun (UTTRAKHAND) and it takes 5 to 6 hours continuous travelling for reaching Panchkula. But the presiding officer in connivance with the complainant and just to harass or humiliate fixing the matters twice in a week. That the LD magistrate has duly been approached by the opposite party i.e. complainant.*

6. *That the complainant is publicly claiming that he has paid an high amount to the Ld JMIC through his counsel sh. xxxxx, Advocate and that the verdict of the above said complaint will come in his favour.*

7. *That the petitioners/applicants came to know through his known Rotarian past District Governor xxxxx that the complainant himself told him that he had approached to the presiding officer through his Advocate and the presiding officer assured to convicts the both accused persons i.e. applicants. It is clear ground which shows that the presiding officer is biased and cannot expect free and fair trial from the same presiding officer. The petitioner now have clear doubt on the authenticity and reliability of the presiding officer.*

8. *That during the course of the trial the learned Magistrate had tried several times to harass and made to stand and kept waiting the applicants for three to four hours in front of the court. It is also pertinent to mention here that the complainant and his counsel usually comes at court after 12 PM. The counsel for the applicants brought this issue in*

the notice of the presiding officer but the presiding officer neither paid any heed nor gave any directions to the counsel as well as complainant to come on or before time which gives grounds to believe that the Court is prejudiced against the Petitioners/applicants.”

(iii). Vide the *impugned order*, the learned Sessions Judge dismissed the transfer application, relevant whereof reads thus:

“This case pertains to the year 2019 and one among the cases under action plan 2024-2025. It appears from the circumstances, that it is the applicants/accused who are trying to delay the proceedings on the one or the other pretext. In case, any order favourable to the applicants/accused has not been passed by the Court concerned, they are at liberty to seek their remedy as per law and they have already taken the appropriate remedy. Simply by expressing apprehension that justice will not be done to the applicants/accused, is not a sufficient ground to transfer the case.”

(iv) It is in this factual backdrop that the *petition in hand* has come up for hearing before this Court.

Rival submissions

3. Learned senior counsel for the petitioner has iterated that the *impugned order* passed by the Sessions Court, whereby *application in question* has been dismissed, is illegal, arbitrary and mechanical as also suffers from complete non-application of mind. Learned senior counsel has iterated that the Sessions Court has failed to consider the age, health and peculiar circumstances of the petitioner and has not dealt with the specific grounds raised seeking transfer. Learned senior counsel has emphasized that the petitioner is an octogenarian aged 89 years, suffering from age-related ailments and is being compelled to undergo prolonged and oppressive criminal proceedings pending since the year 2019, which, by itself, amounts to violation of his fundamental right to life and personal liberty under Article 21 of the Constitution of India. Learned senior counsel has further submitted that the petitioner has a bona fide and reasonable apprehension

that he may not receive fair justice, which is not imaginary but is based upon the manner in which the trial has progressed. Furthermore, the complaint in question pertains to the year 2019 and has remained pending for over six years which causes immense mental, physical and financial harassment to the petitioner. Learned senior counsel has contended that the Court below has failed to exercise the jurisdiction vested in it in a judicious and fair manner by dismissing the transfer application. The refusal to transfer the case has resulted in manifest injustice to the petitioner. On the strength of these submissions, learned senior counsel has prayed for setting aside of the *impugned order* and to transfer the complaint case from the Court of Judicial Magistrate First Class, Panchkula to any other competent Court.

4. Upon being called upon, the respondents have caused appearance through counsel.

4.1. Learned counsel appearing for the State of Haryana has submitted that the *petition in hand* arises out of a private criminal complaint and, thus, State has no effective role in adjudication thereof.

4.2. A written reply has been preferred on behalf of respondent No.2. While raising submission in tandem with the said reply, learned counsel has vehemently argued that the *petition in hand* is misconceived and an abuse of process of law which has been filed only with an intention to delay the trial of the complaint case, which has already suffered substantial delay, on account of repeated applications/proceedings initiated by the petitioner. Learned counsel has contended that the *impugned order* is a well-reasoned one and has been passed after taking into consideration all relevant facts and circumstances. According to learned counsel, the power

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of transfer being discretionary in nature, the Sessions Court has rightly declined to interfere as no exceptional or compelling circumstances were made out. Learned counsel has iterated that mere bald allegations or apprehension of bias cannot be ground for transfer. Furthermore, the petitioner has failed to place any cogent material on record to demonstrate any compelling reason that would necessitate transfer of the complaint to another Court. Accordingly, dismissal of the *petition in hand* is entreated for.

5. I have heard learned counsel for the rival parties and have perused the record.

Prime Issue

6. The prime issue for consideration in the *petition in hand* is as to whether the trial in question deserves to be transferred from the current learned Presiding Judicial Officer to another Court of competent jurisdiction in Sessions Division, Panchkula.

The seminal legal issue, that arises for cogitation is, as to what are the parameters for consideration by a Sessions Judge for transfer of a criminal trial/appeal under Section 408 of Cr.P.C/Section 448 of BNSS, 2023.

7. Relevant Statutory provisions

The Code of Criminal Procedure, 1973(hereinafter to be referred as ‘the Cr.P.C.)

Section 408 of Cr.P.C., 1973 reads asunder:-

“408. Power of Sessions Judge to transfer cases and appeals. —
(1) Whenever it is made to appear to a Sessions Judge that an order under this Sub-Section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) *The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested or on his own initiative.*

(3) *The provisions of Sub-Sections (3), (4), (5), (6), (7), and 9 of section 407 shall apply in relation to an application to the Sessions Judge for an order under Sub-Section (1) as they apply in relation to an application to the High Court for an order under Section-Section (1) of section 407, except that Sub-Section (7) of that section shall so apply as if for the words “one thousand” rupees occurring therein, the words “two hundred and fifty rupees” were substituted.”*

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Section 448 of the BNSS,2023 reads as under:

“448. Power of Sessions Judge to transfer cases and appeals. — (1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) *The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested or on his own initiative.*

(3) *The provisions of Sub-Sections (3), (4), (5), (6), (7), and 9 of section 447 shall apply in relation to an application to the Sessions Judge for an order under Sub-Section (1) as they apply in relation to an application to the High Court for an order under Section-Section (1) of section 447, except that Sub-Section (7) of that section shall so apply as if for the words “sum” occurring therein, the words “not exceeding ten thousand rupees” were substituted.”*

Relevant Case Law

8. The precedents, *apropos* to the matter(s) in issue, are as follows:

(i) In a judgment titled as ***Mrs. Maneka Gandhi and another vs. Miss Rani Jethmalani, 1979(4) SCC 167***, a three Judge Bench of the Hon'ble Supreme Court has held as under:-

“3. One of the common circumstances alleged in applications for transfer is the avoidance of substantial prejudice to a party or witnesses on account of logistics or like factors, especially when an alternative venue will not seriously handicap the complaint and will mitigate the

serious difficulties of the accused. In the present case the petitioner claims that both the parties reside in Delhi and some formal witnesses belong to Delhi; but the meat of the matter, in a case of defamation, is something different. The main witnesses are those who speak to having read the offending matter and other relevant circumstances flowing therefrom. They belong to Bombay in this case and the suggestion of the petitioner's counsel that Delhi readers may be substitute witness and the complainant may content herself with examining such persons is too presumptuous for serious consideration.

4. *Now to the next ground. The sophisticated processes of a criminal trial certainly require competent legal service to present a party's case. If an accused person, for any particular reason, is virtually deprived of this facility, an essential aid to fair trial fails. If in a certain court the whole Bar, for reasons of hostility or otherwise, refuses to defend an accused person an extraordinary situation difficult to imagine, having regard to the ethics of the profession-it may well be put forward as a ground which merits this Court's attention. Popular frenzy or official wrath shall not deter a member of the Bar from offering his services to those who wear unpopular names or unpalatable causes and the Indian advocate may not fail this standard. Counsel has narrated some equivocal episodes which seem to suggest that the services of an efficient advocate may not be easy to procure to defend Mrs. Maneka Gandhi. Such glib allegations which involve a reflection on the members of the Bar in Bombay may not be easily accepted without incontestable testimony in that behalf, apart from the ipse dixit of the party. That is absent here. It is difficult to believe that a person of the position of the petitioner who is the daughter-in-law of the former Prime Minister, wife of a consequential person and, in her own right, an editor of a popular magazine, is unable to engage a lawyer to defend her, while, as a fact, she is apparently represented in many legal proceedings quite competently.*

5. *A more serious ground which disturbs us in more ways than one is the alleged absence of congenial atmosphere for a fair and impartial trial. It is becoming a frequent phenomenon in our country that court proceedings are being disturbed by rude hoodlums and unruly crowds, jostling, jeering or cheering and disrupting the judicial hearing with menaces, noises and worse. This tendency of toughs and street roughs to violate the serenity of court is obstructive of the course of justice and must surely be stamped out. Likewise, the safety of the person of an accused or complainant is an essential condition for participation in a trial and where that is put in peril by commotion, tumult or threat on account of pathological conditions prevalent in a particular venue, the request for a*

transfer may not be dismissed summarily. It causes disquiet and concern to a court of justice if a person seeking justice is unable to appear, present one's case, bring one's witnesses or adduce evidence. Indeed, it is the duty of the court to assure propitious conditions which conduce to comparative tranquillity at the trial. 'Turbulent conditions putting the accused's life in danger or creating chaos inside the court hall may jettison public justice. If this vice is peculiar to a particular place and is persistent the transfer of the case from that place may become necessary. Likewise, if there is general consternation or atmosphere of tension or raging masses of people in the entire region taking sides and polluting the climate, vitiating the necessary neutrality to hold a detached judicial trial, the situation may be said to have deteriorated to such an extent as to warrant transfer.'

(ii) In a judgment titled as **Abdul Nazar Madani vs. State of Tamil Nadu and another, 2000 AIR Supreme Court, 2293**, the Hon'ble Supreme Court has held as under:-

"7. The purpose of the criminal trial is to dispense fair and impartial justice uninfluenced by extraneous considerations. When it is shown that public confidence in the fairness of a trial would be seriously undermined, any party can seek the transfer of a case within the State under Section 407 and anywhere in the country under Section 406 of the Cr. P.C. The apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary based upon conjectures and surmises. If it appears that the dispensation of criminal justice is not possible impartially and objectively and without any bias, before any Court or even at any place, the appropriate Court may transfer the case to another Court where it feels that holding of fair and proper trial is conducive. No universal or hard and fast rules can be prescribed for deciding a transfer petition which has always to be decided on the basis of the facts of each case. Convenience of the parties including the witnesses to be produced at the trial is also a relevant consideration for deciding the transfer petition. The convenience of the parties does not necessarily mean the convenience of the petitioners alone who approached the court on misconceived notions of apprehension. Convenience for the purposes of transfer means the convenience of the prosecution, other accused, the witnesses and the larger interest of the society."

(iii) A three Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Capt. Amarinder Singh vs. Prakash Singh Badal & Ors. 2009(6) SCC 260*** has held as under:

“13) Assurance of a fair trial is the first imperative of the dispensation of justice. The purpose of the criminal trial is to dispense fair and impartial justice uninfluenced by extraneous considerations. When it is shown that the public confidence in the fairness of a trial would be seriously undermined, the aggrieved party can seek the transfer of a case within the State under Section 407 and anywhere in the country under Section 406 Cr.P.C. However, the apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary. Free and fair trial is sine qua non of Article 21 of the Constitution. If the criminal trial is not free and fair and if it is biased, judicial fairness and the criminal justice system would be at stake, shaking the confidence of the public in the system. The apprehension must appear to the Court to be a reasonable one.”

(iv) A three Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Nahar Singh Yadav and another vs. Union of India and others, 2011 (1) RCR (Criminal) 120***, has held as under:

“24. Thus, although no rigid and inflexible rule or test could be laid down to decide whether or not power under Section 406 of the Cr.P.C. should be exercised, it is manifest from a bare reading of sub-sections (2) and (3) of the said Section and on an analysis of the decisions of this Court that an order of transfer of trial is not to be passed as a matter of routine or (2000) 7 SCC 129 merely because an interested party has expressed some apprehension about the proper conduct of a trial. This power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial. Some of the broad factors which could be kept in mind while considering an application for transfer of the trial are:-

(i) when it appears that the State machinery or prosecution is acting hand in glove with the accused, and there is likelihood of miscarriage of justice due to the lackadaisical attitude of the prosecution;

(ii) when there is material to show that the accused may influence the prosecution witnesses or cause physical harm to the complainant;

(iii) comparative inconvenience and hardships likely to be caused to the accused, the complainant/the prosecution and the witnesses, besides the burden to be borne by the State Exchequer in making payment of travelling and other expenses of the official and non-official witnesses;

(iv) a communally surcharged atmosphere, indicating some proof of inability of holding fair and impartial trial because of the accusations made and the nature of the crime committed by the accused; and

(v) existence of some material from which it can be inferred that the some persons are so hostile that they are interfering or are likely to interfere either directly or indirectly with the course of justice.”

(v) A three Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Lalu Prasad @ Lalu Prasad Yadav Vs. State of Jharkhand; 2013 (8) SCC 593***, has held as under:

*“13. xxxxxxxxxxxxxxxxxxxx. Independence of judiciary is the basic feature of the Constitution. It demands that a Judge who presides over the trial, the Public Prosecutor who presents the case on behalf of the State and the lawyer vis-a-vis *amicus curiae* who represents the accused must work together in harmony in the public interest of justice uninfluenced by the personality of the accused or those managing the affairs of the State. They must ensure that their working does not lead to creation of conflict between justice and jurisprudence. A person whether he is a judicial officer or a Public Prosecutor or a lawyer defending the accused should always uphold the dignity of their high office with a full sense of responsibility and see that its value in no circumstance gets devalued. The public interest demands that the trial should be conducted in a fair manner and the administration of justice would be fair and independent.”*

(vi) A two Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Usmangani Adambhai Vahora Vs. State of Gujarat, 2016 (3) SCC 370*** has held as under:

“11. xxxxxxxxxxxxxxxxxxxx. The aforesaid passage, as we perceive, clearly lays emphasis on sustenance of majesty of law by all concerned. Seeking transfer at the drop of a hat is inconceivable. An order of transfer is not to be passed as a matter of routine or merely because an interested

party has expressed some apprehension about proper conduct of the trial. The power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial. There has to be a real apprehension that there would be miscarriage of justice. xxxxxxxxxxxxxxxxxxxxxxxx”

(vii) A three Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Sujatha Ravi Kiran @ Sujatasahu vs. State of Kerala &Ors., 2016(3) RCR (Criminal) 465***, has held as under:

“6. xxxxxxxxxxxxxxxxxxxxxxxx. The Supreme Court will transfer a case from one State to another State only if there is a reasonable apprehension on the part of a party to a case that justice will not be done. The petitioner has pleaded that “the atmosphere in Kerala is not conducive for the case to progress and reach its judicious end”. The petitioner has only alleged that the accused are naval officers and are influential. Mere apprehension that the accused are influential may not be sufficient to transfer the case. xxxxxxxxxxxxxxxxxxxxxxxx”

(viii) In a judgment titled as ***Umesh Kumar Sharma vs. State of Uttarakhand &Ors., 2021(12) SCC 517***, the Hon'ble Supreme Court has held as under:-

“20. The above legal enunciations make it amply clear that transfer power under section 406 of the Code is to be invoked sparingly. Only when fair justice is in peril, a plea for transfer might be considered. The court however will have to be fully satisfied that impartial trial is not possible. Equally important is to verify that the apprehension of not getting a level playing field, is based on some credible material and not just conjectures and surmises.

21. While assurance of a fair trial needs to be respected, the plea for transfer of case should not be entertained on mere apprehension of a hyper sensitive person. In his pleadings and arguments, the petitioner in my assessment has failed to demonstrate that because of what he endured in 2018, it is not possible for the courts in the state to dispense justice objectively and without any bias. It can't also be overlooked that the petitioner is involved in several cases and this year itself has generated few on his own in the state of Uttarakhand. Therefore, it is difficult to accept that justice for the petitioner can only be ensured by transfer of three cases mentioned in these petitions.

22. *While considering a plea for transfer, the convenience of parties would be a relevant consideration. It can't just be the convenience of the petitioner but also of the Complainant, the Witnesses, the Prosecution besides the larger issue of trial being conducted under the jurisdictional Court. When relative convenience and difficulties of all the parties involved in the process are taken into account, it is clear that the petitioner has failed to make out a credible case for transfer of trial to alternative venues outside the State."*

Analysis (re law)

9. Section 408 of Cr.P.C., 1973 encapsulates the statutory provision regarding the power of the Sessions Court to transfer cases and appeals from one Court to another within its jurisdiction. At this juncture, it would be germane to reiterate that the equivalent provision contained in Section 448 of BNSS, 2023 is, in essence, on similar lines insofar as the parameters for transferring of criminal cases/appeals are concerned.

10. An elementary reading of the above provision(s) reflects that the legislature has anchored the Sessions Court's power of transfer of a criminal case upon the singular, broad spectrum criterion of being '*expedient for the ends of justice*'. This statutory phrase, by its very nature, is a term that eludes a rigid or exhaustive definition and ought to be interpreted in light of the specific factual matrix and peculiar circumstances of each individual case. The power of transfer is not an administrative routine but a discretionary judicial function that remains dormant unless the facts of the case demonstrably warrant such an intervention. The power of transfer functions as a residual safety valve, insulating the trial process from prejudice, bias or procedural fairness. By providing the Sessions Court with necessary '*teeth*' to remove a case from an environment that may compromise the integrity of judicial process, it ensures that court

proceedings are being conducted with clinical detachment & impartiality, a fundamental pillar for upholding the constitutional mandate of fair trial.

10.1. It is a foundational postulate of criminal jurisprudence that a fair trial constitutes the cardinal bedrock upon which the edifice of judicial system is constructed. This right is not merely statutory but is an intrinsic element of the right to life and personal liberty as enshrined under article 21 of the Constitution of India. No procedural cost is deemed too exorbitant when the objective is to shield the invaluable right from erosion. The quintessence of a fair trial resides in two non-negotiable pillars: *firstly*, the mandate of *audi alteram partem*; and *secondly*, an adjudicatory process that is entirely insulated from even the perception of bias, prejudice or predisposition. The credibility of justice administration system and judicial institutions is premised not merely on the effective enforcement of the black letter law, but also on the fact that judicial process is inherently fair and is devoid not only of any prejudice(s)/bias but also of any perception of prejudice(s)/bias. This philosophy is captured in the immortal observation of Lord Chief Justice Hewart in the landmark case of ***R v. Sussex Justices ex parte McCarthy, [1924] 1 KB 256***:

'Justice must not only be done, but manifestly and undoubtedly be seen to be done'

The trust and fidelity of common populace in the functioning of judicial institutions is the non-negotiable lifeblood of the justice delivery system, *sine qua non* for which is, that the adjudication/outcome is perceptibly free from even a shadow of prejudice/bias. The Hon'ble Supreme Court in the three Judge Bench judgment in case of ***Rani JethMalani*** (supra), ***Abdul NazarMadani*** (supra) as also the three Judge Bench judgment in case of ***Parkash Singh Badal*** (supra) has clearly

enunciated that if the criminal proceedings are not free as also fair & if they are biased then the judicial fairness and the criminal justice system would be at stake which would shake the confidence of public in the justice dispensation system. Therefore, the necessity to accord credibility to the criminal proceedings is an acute imperative. Though the above-said judgments pertain to exercise of power of High Court under transfer jurisdiction but the basic principles enunciated therein indubitably apply to transfer jurisdiction vested in the Sessions Court. Pertinently, while dealing with the powers of transfer by the Sessions Court under Section 408 Cr.P.C., the Hon'ble Supreme Court in **Lalu Prasad** (supra) has laid great emphasis on the obligation casted upon the judicial officers as well as the public prosecutors and the lawyers to uphold the integrity of the judicial institution.

11. While the right to an impartial trial is sacrosanct, it is equally imperative to recognize a disconcerting emerging trend, where the machinery of transfer is frequently weaponized to undermine the judicial independence. Litigants often misinterpret an adverse or unfavourable judicial order as an indication of inherent bias, leading to a proliferation of unfounded transfer applications that threaten the very stability of the legal process. It must be underscored that a Presiding Officer/trial Judge has to perform his duty and not to succumb to the pressure put by the litigant(s) by making callous allegations. He is not expected to show unnecessary sensitivity to such allegations and recuse himself from the case. Judicial Officers often function and discharge their duties in environment which is overloaded with various stakeholders, literally and figuratively, breathing down their necks. They may, at times, err, owing to tremendous strain,

which can be remedied in multiple ways. However, to cast aspersions on or besmirch their judicial work due to a development/order, unacceptable or unpalatable to a litigant, therefore pleading for transfer of trial etc. by such litigant is plainly subterfuge. If this could be the foundation in transfer of a case, it will well neath yield anarchy in the adjudicatory process. The unscrupulous litigants will indulge themselves in Court/forum hunting which tendency needs to be curbed with an iron hand. If such latitude is to be allowed to litigants, that they need not face the trial in a Court they do not feel comfortable in, it would lead to an infinite regress to find a conducive one. An age old adage, which met approval from the Hon'ble Supreme Court, reads thus:

“...It has also to be remembered that the lower judicial officers mostly work under a charged atmosphere and are constantly under a psychological pressure with all the contestants and their lawyers almost breathing down their necks-more correctly up to their nostrils. They do not have the benefit of a detached atmosphere of the higher courts to think coolly and decide patiently. Every error, however gross it may look, should not, therefore, be attributed to improper motive.”

Vexatious and virulent attempt(s) by unscrupulous elements, aimed at misusing the process of law and Courts, ought to be detested. The sanctity of the judicial process will be seriously eroded if such attempt(s) is not responded with firmness. A litigant who misuses the process of law or take liberties with the truth should be left in no doubt about the consequences to follow. Others should be discouraged not to venture along the same path in the hope or on a misplaced expectation of judicial leniency or indulgence. Exemplary costs, in such a situation are inevitable and necessary, so as to ensure that in litigation, as in the law which is rather practiced in our Country, there is no premium on the truth. Such plea(s)

apropos transfer of trial etc., which are deficient in any reasonability, have to be construed as trifling with the Courts and the process of justice.

12. This Court must hasten to add a word of caution herein. The apprehension expressed by a party to the *lis*, witnesses etc. must be reasonable and not imaginary, based on conjectures and surmises. A person making a plea for transfer is not required to demonstrate that justice will inevitably fail if trial/proceedings etc. are not transferred. Such applicant has to only show the circumstances from which it can be inferred that the apprehension is a reasonable one, in the facts/circumstances of a given case. However, mere apprehension or imaginary anxiety in the minds of a litigant does not afford an occasion for transfer of the proceedings and rather, the averments ought to be substantiated by some cogent material. This evidentiary threshold is further underscored by the legislative mandate under Section 408(3) read with Section 407(3) of the Cr.P.C., which requires the filing of a supporting affidavit, as a condition precedent. Furthermore, the legislative intent to preserve judicial continuity is reinforced by cost imposition mechanism as provided under Section 408(3) read with Section 407(7). Thus, the legislative intent is that the power of transfer is never reduced to a tool for ‘forum shopping’ but is reserved for cases where the impartiality of the trial is genuinely imperiled. An order of transfer ought not be passed as a matter of routine or merely because an interested party has expressed some apprehension about proper conduct of trial even on account of accused being influential person(s) as has been held by Hon’ble Supreme Court in case of *Sujatha Ravi Kiran* @ *Sujatasahu*(supra). This power has to be exercised where it becomes necessary and imperative to instill credibility to the trial proceedings. The

Hon'ble Supreme Court in the case of ***Umesh Kumar Sharma*** (supra) has held that the plea for transfer of a case should not be entertained on mere apprehension of a hyper sensitive person but discernible material in this regard ought to be produced. The Sessions Court, while exercising its transfer jurisdiction, must act with caution and only in exceptional circumstances as has been categorically observed by the two judge Bench of the Hon'ble Supreme Court in ***Usmangani Adambhai Vahora*** (supra).

12.1. It goes without saying that it is neither pragmatic nor feasible to lay any universal exhaustive yardstick or inexorable set of guidelines for adjudication of plea seeking transfer of trial/appeal etc. or as every case has its own unique factual conspectus, which has to be taken into account by the Court which is *seisin* of the mater in question. It was said by Lord Denning, an observation which met with approval by the Hon'ble Supreme Court, that:

....Each case depends on its own facts, and a close similarity between one case and another is not enough, because even a single significant detail may alter the entire aspect. In deciding such case, one should avoid the temptation to decide case (As said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, its broad resemblance to another case is not all decisive."

13. There is yet another aspect *nay* vital aspect of the *lis* in hand which craves attention of this Court. This court is acutely cognizant of an increasingly pervasive and deleterious trend wherein litigants, in a bid to manipulate the judicial process, cast unfounded and scurrilous aspersions upon learned counsel representing the rival side. Such allegations, frequently suggesting an untoward influence over the Court without a shred of cogent or corroborative material, represent an assault on the integrity of judiciary. It must be emphasized that the Indian Judicial System, operating

primarily on an adversarial framework, inherently relies on the advocates of rival parties to facilitate the effective conducting of judicial proceedings. This system entrusts; the responsibility of presenting facts, evidence and legal arguments; upon the advocates, who act as intermediaries between their clients and the Court. The role of the judiciary is not confined to determining which party has presented its case more effectively or persuasively; rather, it is committed to the higher objective of dispensing justice in accordance with law, equity and the principles of fairness. This justice-oriented approach necessitates that the Court receives adequate assistance from rival sides, enabling it to reach decision that aligns with the ends of justice. Advocates play a pivotal role in this process, acting as essential instruments in the administration of justice. A judge, often likened to the charioteer of justice, requires the support of well-informed and legally skilled advocates who function as the wheels of the chariot, ensuring its smooth and effective movement. Without such assistance, the judicial process risks being impaired, leaving the Court ill-equipped to address the complexities of disputes brought before it. The adversarial judicial system in our country is fundamentally dependent on the competence, integrity and ethical conduct of advocates. By conferring the nearly exclusive right to represent parties in Court upon qualified professionals, the Advocates Act, 1961 ensures that the judiciary is supported by individuals who possess the requisite legal knowledge and professional commitment. Advocates, as officers of the Court, bridge the gap between the parties and the judiciary, providing the Court with the assistance it needs to fulfill its constitutional mandate of delivering justice. This partnership between the bench and the bar forms the backbone of the judicial process, fostering a system where

justice prevails, not through the rhetorical prowess of one party over another, but through a fair and informed adjudication of disputes. The role of advocates in this system, therefore, transcends mere representation; it is integral to the preservation of the rule of law and the realization of justice.

The Hon'ble Supreme Court in the case of a judgment titled as ***Dr. D.C. Saxena vs. Hon'ble the Chief Justice of India, 1996(5) SCC 216***, while elucidating the salutary *nay* indispensable role of Advocates in our justice dispensation system; has held thus:

“35. Advocacy touches and asserts the primary value of freedom of expression. It is a practical manifestation of the principle of freedom of speech which holds so dear in a democracy of ability to express freely. Freedom of expression produces the benefit of the truth to emerge. It aids the revelation of the mistakes or bias or at times even corruption. It assists stability by tempered articulation of grievances and by promoting peaceful resolution of conflicts. Freedom of expression in arguments encourages the development of judicial dignity, forensic skills of advocacy and enables protection of fraternity, equality and justice. It plays its part in helping to secure the protection of other fundamental human rights. Legal procedure illuminates how free speech of expression constitutes one of the most essential foundations of democratic society. Freedom of expression, therefore, is one of the basic conditions for the progress of advocacy and for the development of every man including legal fraternity practicing the profession of law. Freedom of expression, therefore, is vital to the maintenance of free society. It is essential to the rule of law and liberty of the citizens. The advocate or the party appearing in person, therefore, is given liberty of expression. As stated hereinbefore they equally owe countervailing duty to maintain dignity, decorum and order in the court proceedings or judicial process. The liberty of free expression is not to be confounded or confused with licence to make unfounded allegations against any institution, much less the judiciary.”

Any unsubstantiated attack on the professional conduct of a counsel, particularly involving the Court/judicial officer(s), is, in essence, an attack on the majesty of law itself. The tendency to vilify counsel

representing the opposing side, as a tactical manoeuvre to secure a transfer, must be met with iron hands. The Court(s) must detest and discourage such practices with utmost sincerity to ensure that the judicial process is not held hostage to the whims of disgruntled litigants.

14. As a squitter to the above rumination, the following principles emerge:

- (i) The exercise of power under Section 408 Cr.P.C./448 BNSS is quintessentially a judicial function and must be exercised with circumspection and only where accentuating circumstances exist and ends of justice would otherwise be defeated.
- (ii) An application for transfer cannot be allowed upon a mere asking or the subjective whims or imaginary anxieties of a litigant. The applicant must bring forth reasonable and non-illusory grounds, substantiated by cogent material, demonstrating a legitimate threat to the purity of the trial.
- (iii) Judicial error is not synonymous with judicial partiality and hence mere passing of an unfavourable order, or even an order subsequently set aside by a superior Court, does not *ipso facto* establish a foundation for bias or prejudice.
- (iv) To prevent the abuse of process and the practice of forum shopping, the Sessions Court must strictly enforce the provisions of Section 408 (3) Cr.P.C./448(3) BNSS, imposing costs on any party preferring frivolous or vexatious transfer application.
- (v) No universal guidelines or parameters can possibly be enumerated for exercise of power of transfer jurisdiction of the Sessions Court as every case has its own unique factual conspectus.



Analysis (re: facts of the present case)

15. Now this Court reverts to the factual milieu of the petition in hand to ratiocinated thereupon. The transfer of the present proceedings arise out of Complaint Case No. COMI/84/2019, titled "***Tarsem Kumar Ruby vs. D.C. Bansal & Another***", filed on 07.08.2019 before the Court of the Judicial Magistrate First Class, Panchkula, alleging commission of an offence punishable under Section 500 IPC. Upon filing of the complaint, the Court below, after preliminary consideration, summoned the petitioner (herein) vide order dated 05.09.2019. The petitioner appeared before the Court in compliance with the said order and on 15.11.2019, the petitioner was granted the concession of bail by the Judicial Magistrate First Class, Panchkula. The proceedings thereafter continued in accordance with law. In the meantime, the petitioner has approached this Court by filing CRM-M-47186-2019, titled "***D.C. Bansal & Another vs. State of Haryana & Another***", challenging the summoning order and the proceedings arising therefrom. After hearing the learned counsel for the rival parties, the said petition was dismissed vide order dated 20.05.2024. Thereafter, on 19.02.2025, the petitioner, citing loss of confidence in the fairness of the proceedings and alleging prejudice, filed an application before the District Judge, Panchkula under Section 448 BNSS, 2023 (corresponding to Section 408 Cr.P.C.), seeking transfer of the complaint case from the Court of Judicial Magistrate First Class, Panchkula, to another competent Court within the same district. While the said transfer application was pending consideration, the matter was listed before the Court of Judicial Magistrate

First Class, Panchkula on 24.02.2025. On that date, the petitioner filed an application seeking exemption from the personal appearance, supported by a medical report, stating that he was not keeping good health. On the same date, i.e. 24.02.2025, the trial Court issued non-bailable warrants against the petitioner in the complaint case. Aggrieved by the issuance of non-bailable warrants, the petitioner approached this Court by filing CRM-M-12764-2025. This Court, vide order dated 20.11.2025, quashed the order whereby non-bailable warrants had been issued against the petitioner. Thereafter, the transfer application filed by the petitioner came to be decided by the Sessions Judge, Panchkula, who, vide *impugned order* dismissed the *application in hand*. Aggrieved by the dismissal of the said transfer application, the petitioner has approached this Court by way of the present petition seeking setting aside of the *impugned order* and transfer of the complaint case to another competent court within the Sessions Division, Panchkula.

16. The power of transfer is indubitably discretionary in nature and is to be exercised sparingly and only in exceptional circumstances. Transfer of proceedings cannot be ordered on the basis of mere apprehension, surmises or dissatisfaction of a party with the manner in which the trial is proceeding. In the present case, the petitioner has failed to place on record any cogent material to establish any likelihood of bias or prejudice on the part of the Court below. The allegations raised by the petitioner are general in nature and do not inspire confidence so as to warrant transfer of the proceedings. The mere fact that the complaint has been pending since 2019 is also not sufficient, by itself, to justify transfer particularly when the delay cannot be attributed solely to the complainant or the trial Court. Therefore,

from the totality of the facts of the case in hand, no perversity, illegality or jurisdictional error has been pointed out warranting interference by this Court.

16.2. The unscrupulous attempt, by the petitioner, in casting aspersions on the learned trial Judge as also learned opposite counsel, *inter alia*, by reliance upon the order dated 02.08.2024 deserves to be deprecated and responded with abhorrence. This Court, however, refrains from imposing exemplary costs upon the petitioner keeping in view, *inter alia*, the factum of the petitioner being a man aged 83 years with no antecedents regarding raising such scandalous issue(s) earlier.

Decision

17. It is thus, directed that:

- (i) The *petition in hand*; seeking quashing/setting aside of the *impugned order* dated 08.08.2025 seeking transfer of complaint bearing No. COMI/84/2019 titled as Tarsem Kumar Ruby vs. DC Bansal and another from the Court of current Presiding Judicial Magistrate to another Court of competent jurisdiction at Panchkula; is dismissed.
- (ii) The petitioner is saddled with costs of Rs.50,000/-, out of which Rs.25,000/- shall be deposited by him with the Haryana State Legal Services Authority, Panchkula within two weeks from today and remaining Rs.25,000/- shall be deposited before the Chief Judicial Magistrate (CJM), Panchkula to be remitted to learned counsel appearing for respondent No.2 (herein)-complainant before the trial Court within two weeks from today. In case, the said costs are not deposited by the petitioner as directed for; the CJM, Panchkula is directed to intimate the Deputy Commissioner, Panchkula who shall have such costs recovered from the petitioner

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including but not limited to as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Panchkula shall have the same submitted to CJM, Panchkula, for further remittance thereof to the quarter(s) concerned. A compliance report be sent by CJM, Panchkula as also Deputy Commissioner, Panchkula to this Court accordingly.

(iii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the trial Court shall proceed further expeditiously, in accordance with law, without being influenced with them.

(iv) Pending applications), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 30, 2026

Ajay

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|----------------------------|-----|
| Whether speaking/reasoned: | Yes |
| Whether reportable: | Yes |