



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>C447/6/2025</u> Raghubir Khanera .. Applicant Versus State Of Uttarakhand and others ..Respondents. <u>Hon'ble Siddhartha Sah, J.</u> Mr. Vishal Vikram Singh, learned counsel for the applicant. 2. Mr. Pratiroop Pandey, learned A.G.A. for the State. 3. Mr. Ravi Babulkar, learned counsel for the respondent nos. 2 & 3. 4. By means of the present Criminal Transfer Application under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant has sought transfer of Criminal Case No. 2861 of 2021, State of Uttarakhand vs. Ramnath Tiwari and Others, presently pending in the Court of learned 1st Additional Chief Judicial Magistrate, Dehradun to the Court at Gopeshwar, District Chamoli, having appropriate jurisdiction. 5. Learned counsel for the applicant submits that the applicant is 67 years old and he is currently suffering from disease 'fundus', due to which, there is a difficulty for him to travel to Dehradun and on that ground, he seeks transfer of the case from the Court of Dehradun to the Court of Gopeshwar, District Chamoli. It is also submitted that his right ankle is also fractured, and thus on the medical ground, he urges that case be



			transferred from the Court at Dehradun to Gopeshwar District Court. 6. On the other hand, Mr. Ravi Babulkar, learned counsel for the respondent nos. 2 & 3 would submit that the grounds, on which, the transfer is being sought of the criminal case is not tenable inasmuch as it is settled law that transfer of a criminal case from one Court to the other Courts can only be sought on three grounds, i.e. threat to fair trial; intimidation to the witnesses and apprehension of bias. 7. He would submit that in the present case, even as per the case of the applicant, all the three grounds on which transfer can be made are absent, and as such, the Transfer Application deserves to be dismissed. 8. Learned counsel for the respondent no.2 and 3 further places reliance on the judgment of the Hon'ble Supreme Court in the case of Usmangani Adambhai Vahora Vs State of Gujarat & Another, rendered in Criminal Appeal Nos.1592–1593 of 2015, arising out of SLP (Criminal) Nos. 9374–9375 of 2015, and has drawn the attention of the Court to paragraph nos. 7, 8 and 11, which are being extracted hereunder for ready reference:- <i>“7. So far as apprehension is concerned, it has to be one which would establish that justice will not be done. In this context, we may profitably refer to a passage from a three-Judge Bench decision in Gurcharan Dass Chadha v. State of Rajasthan, wherein it has been held:-</i> <i>“... The law with regard to transfer of cases is well-settled. A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to demonstrate that justice will inevitably fail. He is entitled to a transfer if he shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there</i>
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			is apprehension that justice will not be done in a given case does not suffice. The Court has further to see whether the apprehension is reasonable or not. To judge of the reasonableness of the apprehension the state of the mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension.” 8. This Court in <i>Abdul Nazar Madani v. State of T.N.</i> has ruled that:- “...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.” 11. 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
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			<i>miscarriage of justice. [See : Nahar Singh Yadav and another v. Union of India and others].”</i> 9. He would further submit that there is absolutely no ground whatsoever to transfer the case as being sought by means of the present application. It is clear from a perusal of the said judgment of the Hon’ble Supreme Court in the case of Usmangani Adambhai Vahora (Supra) that the 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 sparingly and in exceptional situation, 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. 10. In the present case, the only grounds being agitated are the medical grounds and the age of the applicant. Since the present Transfer Application does not pass the test as it has been laid down by the Hon’ble Supreme Court in the case of Usmangani Adambhai Vahora (Supra), hence, this court does not find any ground for transferring the case as being sought by means of the present Transfer Application. 11. Thus, the Transfer Application being devoid of merit deserves to be dismissed. 12. Accordingly, the Transfer Application is dismissed. (Siddhartha Sah, J.) 10.07.2026 Shiv/
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