

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.421 OF 2025**

Alzaid Jabbar Bagwan & Ors.

...Applicants

V/s.

The State of Maharashtra

Through Kondhwa Police Station & Ors.

...Respondents

Ms. Pooja Agarwal (through V.C.), for the Applicants.

Ms. Supirya Kak, APP for the Respondent -State.

Ms. Farhana Shah, for the Respondent Nos. 2 to 5.

Mr. Debajyoti Taludkar (through V.C.), for the Respondent No.6.

Mr. Mayur Vairagkar, API, Kondhwa Police Station, present.

**CORAM : SHYAM C. CHANDAK, J.**

**DATED : 28<sup>th</sup> NOVEMBER, 2025**

**P.C. :-**

. Present Application filed under Sections 223 (d) and 407 of Cr.P.C., corresponding to Sections 246(d) and 447 Bharatiya Nagarik Suraksha Sanhita, 2023 seeks transfer of Regular Criminal Case No.1598 of 2024 pending on the files of the Court of learned Judicial Magistrate First Class, Cantonment Court, Pune to the files of the Additional Sessions Judge, Pune where the Sessions Case No.972 of 2023 is already pending adjudication.

2) Heard Ms. Agarwal, the learned Counsel for Applicants, Ms. Kak, the learned APP for Respondent No.1-State, Ms. Shah, the learned Counsel for Respondent Nos.2 to 5 and Mr. Taludkar, the learned Counsel for Respondent No.6. Perused the documents enclosed with the Application.

3) Facts giving rise to this Application are that, the Applicants are facing prosecution for an offence of Sections 307 and other offences of I.P.C. in the said Session Case No.972 of 2023. This case arises out of an F.I.R. bearing No.1207 of 2022, dated 05/12/2022, registered with Kondhwa Police Station on the oral report of Mr. Jainuddin Sallaudin Shaikh/Respondent No.4. Therein it has been alleged that on 04/12/2022, between 19:00 to 19:30 hours, at Bramha Majestic Society, Kondhwa, Pune the Applicants in furtherance of their common intention assaulted the Respondent No.4 and others named in the F.I.R. by means of iron rod and axe and attempted to commit murder of the informant. On completion of the investigation, the police submitted a charge-sheet against the Applicants, and the case came to be committed and registered as Sessions Case No.972 of 2023.

4) It is the case of Applicants that on the same date, at time and place, Respondent Nos.2 to 6 assaulted three sons of informant Mrs. Saida Jabbar Bagwan by means of baseball bat, hockey stick and wooden sticks and caused them injuries, on account of a dispute arising out of children playing. On 05/12/2022, at about 19:30 hours, Respondent Nos.2, 3 and one Imran Mujawar came at the house of Mrs. Saida Bagwan. They were armed with *Koyta*, Baseball bat and Hockey stick. Further, the three abused her, entered in her house, threatened, outraged her modesty and then went away. Thereafter, a Report dated 04/02/2023 was filed by Mrs. Saida Bagwan clubbing therein the aforesaid two incidents. Said Report

came to be registered at F.I.R. No.141 of 2023 under Sections 354, 324, 323, 504, 506, 143, 141, 147, 148, 448 and 452 of the I.P.C. & 37 (1) r/w. 135 of Maharashtra Police Act, 1951. On completion of the investigation, police submitted the charge-sheet which came to be registered as Regular Criminal Case No.1598 of 2024.

5) It is the case of the Applicants that both the incidents occurred on the same date, at time and place and are arising out of one and the same incident. Therefore, the Applicants preferred Criminal Miscellaneous Application No.518 of 2025 before the learned Principal District Judge at Pune and sought for transfer of the said RCC No.1598 of 2024 to the Court of the Additional Sessions Judge, Pune to try and decide along with the Sessions Case No.972 of 2023.

6) Noting the narration in the F.I.R. filed by the Respondent No.4 and said Mrs. Saida, the learned Sessions Judge held that the F.I.R. filed by Respondent No.4 speaks only of incident occurred on 04/12/2022. However, the F.I.R. filed by Mrs. Saida joined two incidents one dated 04/12/2022 and the other dated 05/12/2022. Further, the learned Sessions Judge noted that until the Sessions Case reached to the stage of recording prosecution witnesses, the Applicants did not attempt to file the transfer Application. The learned Sessions Judge observed that the Applicants started taking adjournment on one count or another count. The learned Sessions Judge also noted the delay in filing the Report by Mrs. Saida. Therefore, and observing that the cited reported decisions **Nathilal**

***Vs. State of U.P.*<sup>1</sup>** and ***State of M.P. Vs. Mishrilal*<sup>2</sup>** are not applicable to the present case, the learned Sessions Judge persuaded to reject the Application.

7) The learned Counsel for the Applicants submits that although the belated F.I.R. filed by Mrs. Saida covered two different incidents, the fact remains that the said Report clearly speaks of the incident dated 04/12/2022. Further, her Report also shows that the said incident dated 04/12/2022 and the incident Reported in the F.I.R. filed by Respondent No.4, both had occurred on the same date, around the same time and place. Therefore, to have just decision in both matters, it is advisable that both the cases are tried and decided by one and the same Court.

8) In contrast, the learned APP and learned Counsel for the Respondents submitted that the reasons recorded by the learned Sessions Judge in rejecting the transfer application are justifiable in the facts and circumstances of the case and need not be interfered with.

9) I have considered these submissions. On perusal of the material I find that, admittedly, the Report filed by Mrs. Saida on 04/02/2023 mentions about the two incidents. But it is a fact that the first alleged incident had occurred on dated 04/12/2022 in which three sons of Mrs. Saida were assaulted by the Respondent party. The offences under Sections 324, 323, 504, 149 etc. of I.P.C., alleged in her F.I.R. No.141 of 2023, relates to the said assault. There are Injury Certificates of Alzaid

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1. 1990 SCC Supp 145

2. 2003 AIR SCW 2066

Jabbar Bagwan and Awaiz Jabbar Bagwan, who are admittedly sons of Mrs. Saida. Said Certificates recorded that these two injured were medically examined on 04/12/2022. The doctor who examined them noted certain injuries on their person. Accordingly, the Medical Certificates were issued on the same date 04/12/2022 by Sassoon General Hospitals, Pune. Thus, this supports the narration in the Report dated 04/02/2023 filed by Mrs. Saida, to the extent of the alleged incident occurred on 04/12/2022 and it is matching with the date, time and place of the incident dated 04/12/2022 narrated in Report filed by Respondent No.4. However, this was not considered by the learned Sessions Judge. Therefore, I deem it appropriate that, both the cases should be tried and decided by the same Court, in the interest of justice.

10) In the wake of above, I am inclined to allow the Application. Hence, following Order:-

- (i) Application is allowed.
- (ii) The impugned Order dated 10/10/2025 in Criminal Miscellaneous Application No.518 of 2025 passed by the learned Principal District Judge, Pune is set aside.
- (iii) The Regular Criminal Case No.1598 of 2024 is transferred from the files of 4<sup>th</sup> Joint Judicial Magistrate First Class, Cantonment Court, Pune to the Court of Additional Sessions Judge, Pune.

- (iv) The administration of the District and Sessions Court, Pune to take the necessary steps for the transfer of the case.
- (v) Application stands disposed of.

11) It is made clear that, the aforesaid observations of this Court in this Order are limited to the adjudication of this Application. The trial Court shall not be influenced by any of the said observations and proceed to decide both the cases on its own merit.

12) Considering the observations in the Order passed by the learned Principal District Judge at Pune, the Applicants shall cooperate for expeditious hearing and disposal of both cases, avoiding unwanted adjournments and delay.

**(SHYAM C. CHANDAK, J.)**