

CRM-M-36679-2024 and
CRM-M-39164-2024

2025:PHHC:123710



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: September 10, 2025

1. CRM-M-36679-2024

Satyam Mahajan

....Petitioner

versus

State of Punjab and another

....Respondents

2. CRM-M-39164-2024

Satyam Mahajan

....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Deepali Puri, Advocate,
Mr. Divij Datt, Advocate and
Ms. Brea Sandhu, Advocate for the petitioner(s).

Mr. Gurpartap S. Bhullar, AAG Punjab.

Mr. Ritesh Pandey, Advocate for respondent No.2
(in CRM-M-36679-2024).

Mr. K.P. Singh, Advocate for respondents No.2 and 3
(in CRM-M-39164-2024).

SUMEET GOEL, J. (ORAL)

1. By way of the present common judgment, this Court proceeds to decide two petitions in hand, since there is commonality and congruity of legal issues therein, as conceded by the learned rival counsel.

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For the cause of convenience, the facts are drawn out from
CRM-M-36679-2024 titled as ***Satyam Mahajan versus State of Punjab and another.***

2. The substantive prayer in the petition reads thus:

“It is, therefore, most respectfully prayed that this Hon’ble Court may kindly be pleased to allow the present Transfer Petition and transfer of BA/ 2434/ 2024 titled as “Aseem Mahajan versus State of Punjab (Annexure P-2) pending in the court of Ld. Additional Sessions Judge, Gurdaspur and all the consequential proceedings arising out of the FIR bearing No.35 dated 20.07.2024 (Annexure P-1), registered at Police Station GRP, Pathankot, against the accused persons under Sections 108, 3(5) of the Bharatiya Nyaya Sanhita to any other Court of law, as this Hon’ble Court deems fit.

It is further prayed that during pendency of the present petition further proceedings before the Ld. Court may kindly be stayed in the interest of justice.”

3. The gravamen of the FIR in question is that it was registered against: i) Onkar Nath, son of Banarsi Dass; ii) Navneet Kumar Verma, son of Onkar Nath; and iii) Aseem Mahajan, Advocate (respondent No. 2 herein), son of Raman Kumar Mahajan; on account of the suicide committed by Late Sh. Rakesh Kumar (father of the complainant/petitioner, Satyam Mahajan). The deceased ended his life by stepping in front of train No.04397 between Railway Stations Dinanagar and Jhakhladi at 83/16 Railway Kilometre on 18.07.2024. In his statement, the petitioner alleged that his father was engaged in a joint business of sale and purchase of property with Onkar Nath and was already in litigation with him before the Gurdaspur Courts over a property dispute. It is further alleged that the accused persons pressurized the deceased to withdraw the said case by telling him that the disputed land would otherwise be wasted in litigation. The complainant stated that his father was under constant stress due to the

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accused persons, who allegedly told him that since they themselves were the witnesses and advocate in the case, he would have no option but to succumb. The complainant also alleged that about three years ago, respondent No. 2, Aseem Mahajan, Advocate, had called his father to his house, coerced him into paying sums of ₹40,000/- and ₹50,000/-, and obtained his signatures on an agreement to sell, though no actual consideration was paid. The accused persons are further alleged to have harassed the deceased from time to time. During the personal search of the deceased's body, three handwritten papers were recovered. In these writings, the deceased mentioned the ongoing dispute with the accused persons concerning the registry/sale deed as well as monetary issues. The complainant also pointed out that in his statement recorded on 18.07.2024, he had indicated his intention to make a supplementary statement for further proceedings. Ultimately, the complainant alleged that his father committed suicide due to continuous harassment at the hands of the aforesaid accused persons.

4. Learned counsel for the petitioner has argued that the petitioner is the complainant in the FIR in question and respondent No.2 is a practising advocate at District Court, Gurdaspur. Learned counsel has argued that respondent No.2 had earlier been exerting pressure upon the deceased (father of the petitioner/ FIR – complainant) on account of which the father of the petitioner committed suicide. Learned counsel has argued that respondent No.2, on account of his being a practising lawyer at Gurdaspur Court, has undue influence on account of which the petitioner apprehends that a fair trial *qua* FIR in question is not possible at Gurdaspur Court(s). It has been

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iterated that when anticipatory bail petition of respondent No.2 was fixed for hearing before the concerned Court at Gurdaspur, a group of lawyers had gathered therein, which has caused fear and anxiety in the mind of the petitioner. Learned counsel has further iterated that the petitioner is finding it difficult to get the services of lawyer(s) to put forth his case before the concerned Court(s) at Gurdaspur. On the strength of these submissions, grant of petition in hand is entreated for.

5. Upon notice of motion having been issued, respondents have entered appearance through counsel.

5.1. Short reply by way of an affidavit dated 06.03.2025 of Tejpal Singh, PPS, Deputy Superintendent of Police, GRP, Pathankot has been filed in the matter and the same is taken on record. Learned State counsel, while raising submissions in tandem with the said reply, has pointed to the culpability of respondent No.2 *qua* FIR in question, but has submitted that final report *qua* FIR in question is yet to be filed. Learned State counsel has submitted that, in so far as the aspect of transfer of case/ proceedings is concerned, the State shall abide by the direction(s)/ order(s) passed by this Court.

5.2. Learned counsel for respondent No.2 has opposed the petition in hand by arguing that submissions raised for seeking transfer of case/ proceedings from the court(s) at Gurdaspur are mis-founded. It has been further argued that the petitioner (herein) has assistance of lawyer(s) at Gurdaspur Court(s), which fact is clearly decipherable from *zimni*/ interim order(s) passed by the concerned Court at Gurdaspur. Learned counsel has

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thus, argued that no cause is made out to transfer proceedings as sought for in the petition in hand. Learned counsel has further argued that there is no threat to the petitioner at Gurdaspur Court(s) and hence, the instant petition be dismissed.

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

7. Before delving into the matter, it would be apposite to refer herein to a judgment in *Sonalika Garg versus State of Punjab*, passed in ~~CRM-M-19068-2024~~, wherein after relying upon the dicta of the judgments of the Hon'ble Supreme Court in *Mrs. Maneka Sanjay Gandhi and another vs. Miss Rani Jethmalani*, 1979(4) SCC 167, *Abdul Nazar Madani vs. State of Tamil Nadu and another*, 2000 AIR Supreme Court, 2293, *Capt. Amarinder Singh vs. Prakash Singh Badal & Ors.* 2009(6) SCC 260, *Nahar Singh Yadav and another vs. Union of India and others*, 2011 (1) RCR (Criminal) 120, *Sujatha Ravi Kiran @ Sujatasahu vs. State of Kerala & Ors.*, 2016(3) RCR (Criminal) 465 and *Umesh Kumar Sharma vs. State of Uttarakhand & Ors.*, 2021(12) SCC 517; this Court has held thus:

“17. As a sequitur to the above rumination, the following principles postulates:

I. (i) Transfer of trial/appeal etc.; exercising powers under Section 407 of Cr.P.C., 1973/Section 447 of BNSS, 2023; can be ordered for by the High Court in case it appears fair trial is not possible at the place where the trial/proceedings is pending.

(ii) The apprehension, of the fair trial being in peril, has to be based on tangible basis/material and not on any conjecture/surmise.

(iii) Before ordering for transfer of trial etc. the High Court ought to consider whether the situation (causing fair trial to be prejudiced) can be managed or resolved by taking any remedial step(s).

II. If an order passed by a Presiding Officer/trial Judge is found to be erroneous by a superior Court, this by itself cannot be

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presumed as such Presiding Officer/trial Judge being biased. Very strong/cogent material is pertinently required for ordering for transfer of trial etc on account of a Presiding Officer/trial Judge being biased.

III. The factum of non-applicant (in a transfer petition) being a lawyer himself or being in close relationship with a lawyer practicing in the Court where the trial is pending adjudication cannot be a ground, sufficient by itself, for shifting of trial. For such a transfer petition to succeed, the applicant (seeking transfer) is required to show discernible prejudice being caused or likely to be caused to such applicant (seeking transfer).

IV. General convenience of parties to trial or witnesses is a factor which may be considered for transfer of trial etc. However, it is not the convenience of one party alone but it is the comparative convenience of all concerned i.e. the accused, victim/complainant, witnesses and the State (Prosecution/Police) which is to be taken into account.

V. In FIR cases pertaining to matrimonial related offence(s); the convenience parameter of the wife, as applicable in divorce/maintenance case etc., shall not apply with same vigour since the convenience of all concerned especially the State/Prosecution is also to be accounted for.

VI. No universal guidelines or parameters can possibly be enumerated for exercise of power of the High Court under Section 407 of Cr.P.C., 1973/Section 447 of BNSS, 2023 as every case has its own unique factual conspectus.”

8. It is thus, indubitable, *albeit* the transfer of proceedings being a fundamental component of judicial integrity and fairness, its exercise is contingent upon a demonstrable and reasonable apprehension of procedural unfairness. This apprehension, however, must be grounded by tangible material, not by mere conjecture or speculative allegations. Absent such concrete evidence, this Court ought to refrain from ordering a transfer, as doing so would risk causing unfounded aspersions on the judiciary's efficiency and efficacy.

Reverting to the facts of the case in hand; transfer of proceedings emanating from the FIR in question have been sought for, primarily; on the ground that respondent No.2 (who is accused in the FIR in question) is a practising lawyer in the Court(s) at Gurdaspur. The

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credential(s) of respondent No.2, of being an advocate, does not seem to have any effect on the proceedings, in any manner prejudicial to the interest of the petitioner before the Gurdaspur Court(s). In case, argument of the petitioner that case/ proceedings ought to be transferred merely on the ground that respondent No.2 is a practising advocate in the Court(s) at Gurdaspur where case/ proceedings are pending, is conceded, would have pernicious and deleterious effects on the administration of justice. If such a principle, *ipso facto*, is accepted, then all the cases concerning members of legal fraternity have to be contested at a place, other than one, where such member(s) of the Bar is practising. Such general ostracism of the legal fraternity is impermissible in law.

8.1. Further from the record, it is borne out that the petitioner is getting assistance of lawyer(s) at Gurdaspur Court(s). Even if, it not be so, the petitioner is well entitled to have assistance of legal aid counsel by making requisite plea before concerned quarter(s).

9. Keeping in view the totality of factual milieu of the case in hand, no case for transfer of case/ proceedings is made out.

10. In view of the prevenient ratiocination, it is directed thus:

- (i) The petition; seeking transfer of BA/ 2434/ 2024 titled as “Aseem Mahajan versus State of Punjab (Annexure P-2) pending in the court of Ld. Additional Sessions Judge, Gurdaspur and all the consequential proceedings arising out of the FIR bearing No.35 dated 20.07.2024 (Annexure P-1), registered at Police Station GRP, Pathankot, against the accused

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- persons under Sections 108, 3(5) of the Bharatiya Nyaya Sanhita to any other Court of law; is dismissed, for the *nonce*;
- (ii) 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, in accordance with law, without being influenced with them.
- (iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 10, 2025
mahavir

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No