

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 500 OF 2026

XYZ

..Petitioner

Versus

State of Maharashtra and Anr

...Respondents

Mr. Abdul H Ansari, for the Petitioner.
Smt. R.S. Tendulkar, APP, for Respondent No.1-State.
Adv M.B. Shirsat, with Swati Pandey, for Respondent No.2.
Mr. S.G. Patil, API, Ayasha Nagar, Police Station, Malegaon.

CORAM: N. J. JAMADAR, J.

DATE : 9th FEBRUARY 2026

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 20th December 2025 passed by the learned Sessions Judge in Criminal MA No. 325 of 2025, whereby an Application preferred by the Petitioner-Prosecutrix seeking transfer of the proceeding arising out of CR No. 62 of 2025 from the Court of Additional Sessions Judge-3, Malegaon to any other Court, came to be rejected.
3. The learned Sessions Judge was persuaded to reject the Application as vague and omnibus allegations were made in the Application seeking transfer.

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4. The allegations in the paragraph 8 of the Application are to the effect that it was rumoured in the city, where the Court is located, that a particular Advocate was engaged to represent the Accused as father of the said Advocate and the presiding officer were close friends and also worked together as Judicial officers at various judicial stations, and an assurance of grant of bail was given.

5. The learned Sessions Judge, has observed that, it was submitted before the Court that the father of the learned Advocate appearing for the Accused has passed away in the year 2011. *Prima facie* the allegations leveled against the learned judicial officer were absolutely unacceptable.

6. An application for transfer of proceedings from one Court to another, where an apprehension that a party may not get justice is expressed, is considered with utmost sensitivity. The true test is not whether there is a likelihood of injustice but whether party seeking transfer has a reasonable apprehension that he may not get justice.

7. In the instant case, the allegations in the Application especially qua the apprehension of injustice on account of the judicial officer, having known the father of the Advocate who appears for the accused are far-fetched, imaginary and wholly dissatisfactory. The father of the concerned Advocate, who was a judicial officer, reportedly passed away in the year 2011. Moreover, the Petitioner has refrained from making

concrete statements and took refuge under purported rumours. It *prima facie* appears that baseless allegations have been made against the judicial officer.

8. A useful reference can be made to the judgment of the Supreme Court in the case of **Gurcharan Das Chadha Vs State of Rajasthan**¹ wherein the law was enunciated as under:

“13... 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 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.”

¹ AIR 1966 SC 1418.

9. In the case of **Usmangani Adambhai Vahora Vs State of Gujarat and Anr**,² following the aforesaid pronouncement, the following observations were made:

“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. (See *Nahar Singh Yadav Vs Union of India* (2011) 1 SCC 307).

10. Where a party entertains reasonable apprehension based on certain objective facts, the Court seriously evaluates the basis of apprehension and the prayer for transfer, so as to ensure that justice is not only done but it is seen to be done. However, where baseless allegations are made against the judicial officers, entertaining a prayer for transfer would seriously undermine the administration of justice and may prove counter-productive. The instant case falls in the later category.

11. Therefore, in exercise of supervisory Writ Jurisdiction, this Court does not find any reason to interfere with the impugned order.

12. Petition stands dismissed.

[N. J. JAMADAR, J.]

² (2016) 3 SCC 370.