

**IN THE COURT OF SH. DINESH BHATT
PRINCIPAL DISTRICT & SESSIONS JUDGE-CUM-SPECIAL
JUDGE (PC ACT) CBI ROUSE AVENUE DISTRICT COURTS
NEW DELHI**

Misc. DJ ASJ-104/2026
Balbir Chand Tiwari Vs. CBI & Ors.

Misc. DJ ASJ-105/2026
Sukh Mohinder Singh Sandhu Vs. CBI & Ors.

RC No.2(S)/1994-SIU.V/SIC-II
U/s 120-B IPC r/w 342, 343, 364 IPC
PS CBI/SPC/SIC.II/New Delhi

17.03.2026

**ORDER ON TRANSFER PETITIONS U/S 448 OF THE
BNSS, 2023 (EARLIER SECTION 408 OF Cr.PC FOR
TRANSFER OF THE CASE TO ANY OTHER COURT.**

1. These are two Transfer Petitions filed by applicants Balbir Chand Tiwari and Sukh Mohinder Singh Sandhu under Section 448 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (Earlier Section 408 of the Code of Criminal Procedure) for transfer of the present case to some other court. Both the transfer petitions are mainly based on similar facts and almost similar replies, have been filed. Accordingly, are taken up together for disposal.
2. The petitioner Sukh Mohinder Singh Sandhu has stated that the case under Section 342/365 IPC was registered on the orders of the Hon'ble High Court of Punjab & Haryana. The

petitioner was then serving as Superintendent of Police in Punjab Police along with three other persons who have been made accused in the matter. The sanction was twice declined for offence under Section 364 IPC. The petitioner was 78 years of age. The grounds raised in the petition are almost similar to the other petition preferred by petitioner and are therefore referred in the facts of the second petition.

3. The petitioner's (Balbir Chand Tiwari) case is that he was serving in the Police Department and had superannuated in the year 2003 and was presently about 80 years of age. A criminal case arising out of FIR no. 22/1994 under Section 406, 420, 465 IPC had been registered in PS Focal Point, Ludhiana where A-3 Paramjit Singh was serving as SHO. The case was investigated by PS Focal Point, Ludhiana and the applicant had nothing to do with the case. On the complaint of Chief Manager, Allahabad Bank, the supervisory SP of PS Kotwali had ordered for registration of FIR under Section 406, 120-B against several persons where applicant was serving as SHO. On 15.03.1994, Hon'ble Punjab & Haryana High Court had passed an order. Thereafter accused no. 2 S.P. along with Vinod Kumar had come to the PS Kotwali. Applicant had learnt that Vinod Kumar had requested the SP A-2 to apprise the applicant of the order dated 15.03.1994 of the Hon'ble High Court. Applicant had recorded a case diary in this regard and thereafter, A-2 and Vinod Kumar had left the PS. On the next day, an application was moved before the Hon'ble Punjab & Haryana High Court that Vinod Kumar, his driver

Mukhtiyar Singh and A-2 (S.P) had travelled together from the parking area of the Hon'ble Punjab & Haryana High Court to Ludhiana but thereafter, Vinod Kumar, his driver and Ashok Kumar were missing. The matter was referred to CBI for investigation and final report was filed before the Hon'ble Punjab & Haryana High Court. Thereafter, a chargesheet was filed. On 06.12.2006, charges under Sections 120-B read with Section 341, 342 and 364 IPC along with substantive offences were framed against the accused. The applicant in question was unconnected with any allegations but had been falsely implicated in this case. The State Government had twice refused sanction for prosecution under Section 364 IPC. Thereafter, the Hon'ble Punjab & Haryana High Court, had referred the matter to State Government for necessary sanction and thereafter the case was registered under Section 365 IPC. The Ld. CJM took cognizance and issued summons under Section 365 IPC and not under Section 364 IPC. The applicant had filed revision petition against the charges. The said revision petition was disposed off vide order dated 21.08.2024 by directing that though the matter had been pending for almost 18 years, but the said pendency could not be attributed to any of the parties. At the same time, the petitioner had raised certain relevant issues which go to the root of the matter, however, at this stage, since evidence was almost completed, it would not be proper to turn the clock back. Thus, petitioner was permitted to raise all grounds raised by them in the revision petition before the Ld. Trial Court and the Ld. Trial Court was directed to decide the same without being

influenced by observations made in the aforesaid order dated 08.12.2006. Petitioner has prayed for transfer on the ground that the Hon'ble Trial Court had passed order dated 23.09.2025 that final arguments would be heard in the structured way and the question of sanction would be argued first. The Predecessor Judge was transferred and the present Presiding Officer had taken up the matter on 19.12.2025 through VC from his chamber and had dictated the order online which was also heard by the applicant, present in person along with other persons and counsels. The said order was also uploaded on e-courts. The Ld. Trial Court had passed the order that the matter be put up on 07.01.2026 at 2.00 pm for arguments on the point of prosecution sanction issued against the accused persons as prayed. This order was heard by everybody who were present and was also heard on the VC. On 07.01.2026, Ld. PP had advanced arguments on the point of sanction and when the outlines of the facts of the case were being put up, the Hon'ble Court had directly addressed Ashish Kumar (complainant) and had asked him the date on which his father had expired. This raised a doubt in the mind of the petitioner as to how the Hon'ble Presiding Officer knew or had recognized the complainant as this was the first physical hearing before the Hon'ble Court. On the same day, the Hon'ble Trial Court also passed an order stating that the final arguments on merits and sanction would be heard together. After the hearing was over, the applicant had heard the complainant saying "*order to badalwa diya hai, aur ab saza bhi karwa denge*". Thereafter, the applicant had moved an application

for proper compliance of the orders of the Hon'ble High Court but the said application was not heard in a proper manner and was dismissed in *limini*. The Hon'ble Court also mentioned that he had never dictated the order of hearing arguments on sanction and instead had dictated that final arguments be heard in the matter. It is stated that the manner in which the Ld. Trial Court had proceeded firstly, by changing the ordersheet, secondly, by showing the conduct that he was known to the complainant and lastly, by dismissing their application without proper hearing has given rise to a reasonable apprehension that he would not get justice and therefore, the case be transferred to some other court.

4. Prosecution has not filed any formal reply but has orally argued the application. Ld. Sr. PP has denied the allegations and stated that the Ld. Trial Court had opined that he would be hearing the arguments in totality i.e. on merits along with the arguments on the issue of sanction and other issues raised by the petitioner in his revision before the Hon'ble High Court. This was the prerogative of the Hon'ble Court and could very well decide the manner in which the arguments were to be heard. In regard to the fact that the Ld. Trial Court had referred to the complainant on the date of hearing, he submitted that on the said date at 2.00 pm, only one matter was listed. The complainant had already given his presence and was standing behind him, therefore, during the course of arguments, when he was searching for the date of death of the father of the complainant, the Ld. Trial Court

had in normal course, asked the complainant, about the date of the death of his father. Ld. Sr. PP has prayed that the application be dismissed.

5. Complainant has filed separate written replies to both the petitions denying all the allegations and raised counter allegations that the petitioner and other accused persons had been moving various applications for transfer to delay the proceedings. There was order sheet of the Hon'ble High Court of Punjab & Haryana wherein it was recorded that one of the accused persons had threatened him. Complainant has prayed that the application be dismissed.
6. Other respondents have also orally supported the petitions and prayed for transfer of the case.
7. Petitioner Sukh Mohinder Singh has referred to the following judgments :-
 - (i) Rama Narayan Vs. Rakesh Tandon & Ors. 2006 SCC OnLine AII 139: (2006) 63 ALR 47 (AII) : (2006) 4 AII AJ (NOC 654) 6,
 - (ii) Dr. Jayesh Arjun Katira Vs. The State of Maharashtra Criminal Application No. 617 of 2016 passed by Hon'ble High Court of Judicature at Bombay.
8. Ld. Trial Judge had also submitted his comments in closed envelope to the extent that the allegations are wrong, the ordersheet was erroneously uploaded by the stenographer and he had no objection if the same is transferred.

9. The law relating to the transfer of a case as provided under Section 448 BNSS (408 Cr.P.C.), High Court rules and orders under Chapter 26 and the referred judgments is that a case can be transferred if there is real apprehension of bias in a trial and/or if it is expedient in the interest of justice and if an option for transfer is available.

10. In the present matter and in the connected petition, petitioners have sought transfer mainly on three grounds i.e. :-
 - (i) That the Ld. Trial Court had ordered for hearing the arguments in a structured manner and had mentioned that the arguments on sanction would be heard first and decided and thereafter final arguments would be heard but the present Ld. Judge had initially passed the orders that he would be hearing the arguments on sanction first but behind their back changed the order and ordered for arguments on merits, thereby causing prejudice to the accused persons.
 - (ii) That they had moved an application for seeking compliance of the orders of the Hon'ble High Court but the Ld. Trial Court did not even allow them to argue on the application and dismissed the same without even being heard.
 - (iii) That the Ld. Trial Court had directly addressed the complainant which was unusual and had given rise to the suspicion as to how the Ld. Judge was

knowing the complainant.

11. In regard to the first plea, it is stated by the petitioner that the earlier Ld. Judge had ordered that she would be hearing arguments on the point of sanction first but the present Ld. Judge has earlier mentioned the same thing in the order dated 19.12.2025 which was also uploaded on the website of the court but thereafter changed the same and instead of listing on the point of prosecution sanction put it up for final arguments. This fact has been clarified by the complainant and also by the Ld. Public Prosecutor for the CBI. There is also a explanation given by the Ld. Trial Court about the same in the order dated 19.02.2026 whereby it has been mentioned that the ordersheet which was physically signed was to the effect for hearing final arguments but the ordersheet mentioned about sanction for prosecution was inadvertently uploaded by the concerned Stenographer. It is well known that at times, there can be some mistakes committed by the court or the staff in uploading of orders, however, it is required to be clarified by the concerned Presiding Officer which was already done. In any case, the said alleged change seems to be insignificant as there appears to be no prejudice shown to be caused to the petitioners or any material change in the two referred order sheets. If the order passed by the Hon'ble High Court dated 21.08.2024 is seen, in para-6 it has been mentioned that – *in view of the above, the petitions are disposed off with a direction to the Ld. Trial Court to consider all the arguments as taken by the petitioners in the present petitions at the time*

of final arguments in the complaint case no.55/2004 without being influenced by the observations made in the order dated 08.12.2006.

12. The aforesaid order is clear to the extent that the matter was at the stage of final arguments and since the revision petitions were being disposed off, which had raised certain material issues therefore, the Ld. Trial Court was directed to hear the petitioners on the grounds raised in the revision petition at the time of final arguments. The petitioner has raised the issue that the Ld. Predecessor Judge had put the case for hearing in a structured manner i.e. arguments on sanction were to be heard first and petitioners were to argue the matter first and thereafter, the prosecution had to rebut their arguments, however, the present Ld. Judge had changed the earlier ordersheet and had directed to hear the case on final arguments along with the arguments on sanction. In this manner, the prosecution was to start the arguments and thereafter, the petitioners had to rebut the entire case along with the arguments on sanction. This has prejudiced their case as they have an important right to argue on the sanction first. The Ld. Counsel for the petitioner is trying to say that the Ld. Trial Court did not have any power to change the sequence of arguments i.e. from the structured manner to be heard finally. Ld. Counsel also suggested that this was also important as they had an important right to know about the final outcome on the issue of sanction and probably the Ld. Predecessor Judge would have decided on the sanction first before hearing the

arguments on merits. On this issue, it is important to note that the Hon'ble High Court vide order dated 21.08.2024 had held that - *in view of the above, the petitions are disposed off with a direction to the Ld. Trial Court to consider all the arguments as taken by the petitioners in the present petitions at the time of final arguments in the complaint case no.55/2004 without being influenced by the observations made in the order dated 08.12.2006.*

The directions as per the orders of the Hon'ble High Court vide order dated 21.08.2024 (supra) are to the effect that petitioners have to be heard on the issues raised in the revision petition including the issue of sanction but it cannot be taken to mean that the petitioners have to address arguments only on the issue of sanction and the court was required to decide on this issue first and thereafter final arguments would be heard. The Ld. Counsel for the petitioner also stated that he did not mean that the Ld. Trial Court was required to decide on issue of sanction first but he only wanted that the Ld. Trial Court should first allow them to address arguments on sanction. On this issue the Ld. Trial Court is the authority to decide on the manner of hearing arguments with the condition that the directions of Hon'ble High Court, as per order dated 21.08.2024, are followed. The Ld. Trial Court had made this point very clear in the order dated 19.02.2026 and therefore, the petitioners should have been left with no ground to feel aggrieved on the issue of hearing final arguments along with the issue of sanction or any other ground raised by them in the revision petition.

13. The second issue raised by the Ld. Counsel for the petitioner is also related to the first issue and is clearly covered as per order dated 21.08.2024. It is also well known that it is not mandatory for the Court to call for reply on each and every application and can even dispose off the applications in limini if it can be legally done. The issue raised by the petitioner in the concerned application were only for complying with the directions of the Hon'ble High Court which had already been dealt by the Ld. Trial Court and therefore there is no force in the aforesaid ground raised by petitioners.

14. The third issue that the Ld. Trial Court had referred to the complainant and that the Ld. Judge was knowing the complainant. This is merely a fanciful argument addressed by the accused that Ld. Public Prosecutor had mentioned that a single matter was being heard in the court at 2.00 pm and the complainant's presence had already been marked and he was standing behind him. Cause list of the said date is also perused which shows that there were only two matters listed on the said date and the present case was stated to be listed at 2.00 pm therefore there is a likelihood that the Ld. Trial court had seen the complainant who was standing behind Ld. Public Prosecution and his presence had already been marked and therefore presumed that he was the complainant and even otherwise there was no ground to doubt about impartiality of the Ld. Trial Judge as he would himself recused from the case, if there was any such issue.

15. Lastly, considering the applicant's prayer from the view point as to whether the prayer of the applicant was expedient in the interest of justice or not.

The case in question has arisen out of an incident of the year 1994 i.e. about 32 years ago and there have been several applications filed by the different parties for transfer and the present case has been transferred from State of Haryana to Delhi. It would therefore be expedient in the interest of justice that the case is not shifted from one court to another which otherwise would result in unnecessary delay will not be in the interest of justice.

16. Accordingly, there is no merit in the applications for transfer. The same are dismissed.
17. File be consigned to record room.
18. Copy of this order be sent to the Ld. Trial Court for further information and necessary compliance.

Announced in the open court
on this 17th March, 2026.

(Dinesh Bhatt)
Principal District & Sessions Judge-cum-
Special Judge (PC Act) (CBI),
Rouse Avenue District Court
New Delhi/17.03.2026