



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

114

Transfer Application No.310 of 2026 (O & M)

Date of decision :-14.05.2026**Kajal****.....Applicant****Versus****Sumit****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Karan Ranjha, Advocate
for the applicant.

Mr. Vinay Singh Rathee, Advocate with
Ms. Vaishali Malik, Advocate
for the respondent.

NIDHI GUPTA J. (Oral)

Prayer in the present petition filed by the applicant-wife is for transfer of the petition bearing No. HMA/825/2025 filed by the respondent-husband under Section 13 of the Hindu Marriage Act, 1955 (for short, 'the Act') titled as "Sumit vs. Kajal", pending before the Court of learned Principal Judge, Family Court, Rohtak, to a Court of competent jurisdiction at Kaithal.

2. Learned counsel appearing on behalf of the applicant-wife has *inter alia* contended that the applicant is presently residing at Kaithal with her single mother after having been compelled to leave the matrimonial home. It is submitted that the applicant is unemployed, has no independent source of income and is entirely dependent upon her mother, who is stated to be old and suffering from



ailments. Learned counsel further submits that the respondent-husband is serving in the Air Force and is presently posted at Nagaland, but despite being gainfully employed, he is not paying any maintenance to the applicant. It is also contended that proceedings initiated by the applicant under the Protection of Women from Domestic Violence Act, 2005 are already pending before the competent Court at Kaithal and, therefore, in order to avoid inconvenience and multiplicity of litigation at different places, the petition filed by the respondent-husband deserves to be transferred to Kaithal. Learned counsel has further argued that the distance between Kaithal and Rohtak is approximately 130 kilometers one way and, in the absence of any male member to accompany her, it would be difficult and unsafe for the applicant-wife to undertake travel on each and every date of hearing.

3. Learned counsel for the applicant has further contended :-

- i) that the parties were married on 03.12.2022 according to Hindu rites and ceremonies.
- ii) that no child was born out of the said wedlock.
- iii) that the applicant-wife has been living separately from the respondent-husband since 04.12.2024 and is residing with her single mother at Kaithal.
- iv) that the applicant is unemployed, has no source of income and is wholly dependent upon her mother for sustenance.
- v) that proceedings arising out of a petition filed under the Protection of Women from Domestic Violence Act, 2005 by the applicant-wife are pending before the competent Court at Kaithal.



- vi) that the distance between Kaithal and Rohtak is approximately 130 kilometers one side.
- vii) that there is no proficient male member in the family of the applicant, who can accompany her to visit and attend the Court of proceedings at Rohtak as the applicant is living with single mother, who is old and used to remain ill.

4. *Per contra*, learned counsel appearing on behalf of the respondent-husband has opposed the prayer made in the present petition and submitted that the allegations levelled by the applicant are baseless and concocted. It is submitted that the respondent-husband is serving in the Air Force and is presently posted at Nagaland. Whenever he obtains leave from service, he visits his native place at Rohtak to look after his aged parents and fulfil his familial obligations. Learned counsel for the respondent has further controverted the assertion made on behalf of the applicant that she is residing only with her ailing mother. It is submitted that the father of the applicant is serving as an Assistant Sub Inspector in the Police Department. Learned counsel has argued that merely because the applicant is a female, it cannot be presumed that she is incapable of travelling from Kaithal to Rohtak to attend Court proceedings, particularly when the distance is not substantial and the hearings are not on a daily basis. It has further been contended that the present transfer petition has been filed only with an intention to harass the respondent physically and mentally. Learned counsel submits that the journey from Kaithal to Rohtak takes approximately two hours and, therefore, no undue hardship would be caused to the applicant in



attending the proceedings before the Family Court at Rohtak. It is also pointed out that FIR No.218 under Sections 78, 79, 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 stands registered at Police Station PGIMS, Rohtak against the applicant-wife and the said proceedings are also pending at Rohtak.

5. I have heard learned counsel for the parties and have gone through the paper-book with their able assistance.

6. It is true that while considering transfer petitions arising out of matrimonial disputes, the convenience of the wife ordinarily deserves due consideration. However, such consideration cannot be applied mechanically in every case and each matter is required to be examined on its own facts and attending circumstances.

7. In the present case, the respondent-husband is admittedly serving in the Air Force and is presently posted at Nagaland. It has specifically been asserted that whenever he is granted leave, he visits Rohtak to attend to the needs and well-being of his aged parents. On the other hand, except for general assertions regarding inconvenience, no exceptional or compelling circumstance has been brought on record by the applicant to demonstrate that she is physically, financially or otherwise incapacitated from travelling to Rohtak for attending the Court proceedings.

8. The distance between Kaithal and Rohtak is stated to be approximately 130 kilometers and it is not disputed that the said journey can conveniently be undertaken within about two hours. Further, the applicant is not required to travel on a daily basis, but



only on dates fixed by the Family Court. Mere inconvenience, in the absence of any serious hardship or a male member cannot by itself constitute a sufficient ground for transfer of proceedings.

9. Though learned counsel for the applicant has submitted that there is no male member available to accompany her, the said contention also stands disputed by the respondent, who has pointed out that the applicant's father is serving as an Assistant Sub Inspector in the Police Department. In any case, no material has been placed before this Court to establish any genuine threat, medical incapacity or other compelling circumstance preventing the applicant from attending proceedings at Rohtak.

10. This Court is well aware of the preponderance of law in cases of transfer emanating from matrimonial disputes is in favour of the wife. However, in certain similar cases as the present one, the Hon'ble Supreme Court, as well as this Court have refused relief to the wife. One such case which may be referred to is: **(2006) 9 SCC 197 'Anindita Das Vs. Srijit Das'** wherein Hon'ble Supreme Court under similar circumstances dismissed the wife's application seeking transfer of petition filed by the husband. Reference in this regard may also be made to two cases of this Court where, in similar circumstances this Court had dismissed transfer applications filed on behalf of the wife. These are: **TA no. 126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**



TA-310-2026 (O & M)

11. In view of the facts and circumstances noticed above, this Court does not find any sufficient or compelling ground warranting transfer of the petition filed by the respondent-husband from Rohtak to Kaithal.

12. Consequently, finding no merit in the present petition, the same is hereby **dismissed**.

13. Pending application(s), if any, shall also stand disposed of.

May 14, 2026
Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No
Whether Reportable Yes / No