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

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CRM-M-20265-2026 (O&M)

Date of decision: 22.04.2026

Kirti Bhatia and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present:-. Mr. Jaswinder Singh Randhawa, Advocate
for the petitioners.

SHALINI SINGH NAGPAL, J.

1. Prayer in the petition under Section 447 of BNSS, is for transfer of criminal case arising out of FIR No.179 dated 24.04.2025, under Sections 354-C, 509, 34 IPC, Section 3(2)(va) of SC/ST Act and Section 66E of IT Act, pending in the court of Additional District and Sessions Judge Karnal to the competent court at Faridabad.

2. Learned counsel for the petitioners submits that petitioner No.1 was married with son of respondent No.2 on 31.08.2020 at Faridabad. Petitioner and her husband lived at Karnal and out of the wedlock, a male child was born on 17.06.2021 in the parental home of the petitioner after she was thrown out from the matrimonial home. From the very beginning, respondent No.2 and his family members harassed petitioner No.1 for dowry and tortured her. The child was forcibly snatched by respondent No.2 and her son regarding which



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petitioner filed a habeas corpus petition wherein interim custody was granted to both the parties for 50 days. Later, petitioner No.1 filed a petition under Guardian and Wards Act for custody of the child. In 2023, respondent No.2 lodged an FIR against petitioners only to harass them. The FIR was direct outcome of the matrimonial dispute. Sister-in-law of petitioner No.1 had also lodged a complaint at Karnal levelling false allegations against brother of petitioner No.1 and two other police official regarding assault, detention and wrongful confinement. On the basis of the complaint, police authority had issued a notice to the petitioners.

3. Learned counsel further submits that petitioner were residents of Faridabad and the criminal case was pending at Karnal, at a distance of around 180 kms one side. It was extremely difficult for petitioner No.1 to appear in the court at Karnal on each and every date of hearing as her 3 ½ years minor child required constant care. Moreover, petitioners had reasonable and genuine apprehension that in case they continued to attend proceedings at Karnal, they may be falsely implicated in another criminal case. Petitioner No.2 was suffering from serious health issues, making it difficult for him to frequently travel. It is thus prayed that trial in FIR No.179 dated 24.04.2025 be transferred to Faridabad where other litigation between the parties was already pending.



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4. Section 407 Cr.P.C. which relates to transfer of criminal case reads as under:-

407. Power of High Court to transfer cases and appeals.-

(1) whenever it is made to appear to the high Court-

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,”

5. In '***Dipti Chauhan vs. State of Haryana and others***', **2025(1) RCR (Criminal) 613**, a Co-ordinate Bench of this Court has deduced the following principles in relation to powers of this Court under section 407 IPC:-

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 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 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 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.”

6. There can be no denying that the trial proceedings ought to be taken at its jurisdictional place, as prescribed by law. Though Section 407 Cr.P.C. empowers this Court to consider convenience of the complainant, the jurisdiction under Section 407 is not to be exercised as a matter of course or routine, unless compelling reasons are found made out. The convenience of other stake holders in the justice delivery system is also to be considered. The status of the petitioners in the criminal case is that of accused. The criminal case is being prosecuted by the State of Haryana. It is not a private case. Transfer of the criminal trial to Karnal cannot be permitted on the ground of inconvenience of the petitioners and long distance between Karnal and Faridabad. It is not the convenience of the petitioner which



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is the only consideration, the convenience of the witnesses and the prosecuting agency is equally relevant. Just because of sister-in-law of petitioner No.1 lodged another complaint at Karnal and notice thereof has been issued to one of the petitioners cannot be a ground to transfer the trial to Faridabad.

7. Accordingly, petition for transfer of the criminal case arising out of FIR No.179 dated 24.04.2025, under Sections 354-C, 509, 34 IPC, Section 3(2)(va) of SC/ST Act and Section 66E of IT Act, pending in the court of Additional District and Sessions Judge Karnal to the competent court at Faridabad, is hereby dismissed.

8. Pending misc. application(s), if any, also stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

22.04.2026

Kapil

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No