

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

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**CRM-M-51561-2019 (O&M)**

**Reserved on 21.03.2024**

**Pronounced on 31.05.2024**

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Charanjit Singh Sharma

... Petitioner

VS.

State of Punjab

... Respondent

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. Sangram Singh Saron, Advocate and  
Ms. Shubreet Kaur and Mr. MB Rajwade,  
Advocates for petitioner

Mr. Deepender Singh, Addl. AG Punjab

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**Sandeep Moudgil, J.**

(1). The jurisdiction of this Court has been invoked under Section 407 CrPC for transfer of case FIR No.130 dated 21.10.2015 under Sections 302, 307, 34, 201, 218, 120-B IPC and Sections 25 & 27 of Arms Act, 1959 registered at Police Station Bajakhana, District Faridkot (Annexure P2) now pending in the Court of Sessions Judge, Faridkot, to the Court of competent jurisdiction outside the District Faridkot, preferably in the State of Haryana or UT Chandigarh.

(2). The issue involved in the present case i.e. violence at Bargari following alleged sacrilege of Sri Guru Granth Sahib, is that whether the petitioner has been able to make out a ground that there is no congenial atmosphere at Faridkot to conduct fair and impartial trial and therefore, the trial of the subject FIR needs to be transferred outside Faridkot?

(3). Brief facts involved in the present case cynosures the incidents of sacrilege of Sri Guru Granth Sahib as well as theft of the Holy Granth Sahib

from Gurudwara Burj Jawahar Singh Wala, District Faridkot in relation to which, an FIR No.63 dated 02.06.2015 under Section 295-A-380 IPC was registered at P.S. Bajakhana against unknown persons in this regard. Thereafter on 24-9-2015 posters were pasted out side the Gurudrawa Burj Jawahar Singh Wala in praise of Baba Ram Rahim of Dera Sacha Sauda Sirsa, inciting violence between sikh community and Dera Sacha Sauda Sirsa followers and others Sikh organizations having faith in Shri Guru Granth Sahib. This led to registration of 2<sup>nd</sup> FIR bearing No. 117 dated 25.09.2015 under Sections 295-A/120-B/506 IPC at P.S. Bajakhana against unknown persons. Similarly one more FIR pertaining to such incident of sacrilege in hurting religious feelings was registered vide FIR No. 128 dated 12- 10-2015 u/s 295-A,120-B IPC at P.S. Bajakhana against unknown persons followed by another FIR No. 129 dated 14-10-2015 u/s 307, 435, 332, 333, 353, 283, 186, 148, 149 IPC and Section 25, 27 Arms Act and Section 3, 4 of Prevention of Damage to Public Property Act, 1984 was registered at P.S. Bajakhana at the instance of SI/SHO Amarjeet Singh with regard to incident of violence and obstructing the police officials in discharging their duty by torching their official vehicles as well as opening assault in order to cause death of the police officials and causing damage to public property.

(4). In the firing which took place at village Behbal Kalan, two persons in the mob, namely, Krishan Bhagwan son of Mohinder Singh and Gurjeet Singh son of Sadhu Singh received injuries in the firing resulting in their death and the Director, Bureau of Investigation-cum-Chairman, Special Investigation Team (SIT) directed registration of FIR No.130 dated 21-10-

2015 u/s 302, 307, 34 IPC and Section 25,27 Arms Act at P.S. Bajakhana in which none was identified as accused (Annexure P2).

(5). Thereafter, the Commission of Inquiry headed by Justice Ranjit Singh (Retd.) in its report dated 30-6-2015 *prima facie* indicted Charanjit Singh Sharma (petitioner), the then SSP Moga, Bikramjit Singh, the then S.P. Fazilka, Inspector Pardeep Singh and SI Amarjit Singh the then SHO Bajakhana who were responsible for dilly-dallying the matter with regard to the incident of firing in which two persons from the mob lost their lives. The petitioner was arrested on 27.01.2019 and was granted interim bail on medical grounds. The police hurriedly filed report under Section 173 CrPC against the petitioner on the basis of incomplete report in the Court of CJM, Faridkot, on 23.04.2019 and the case was committed to the Court of Sessions without compliance of Section 207 CrPC.

(6). Besides, the petitioner was nominated as accused in the FIR No.129 dated 07.08.2018 by the SIT and was granted bail and in the said FIR, Challan has been presented against the petitioner by Kunwar Vijay Partap Singh, IPS, Member SIT, who was restrained by the Election Commission to perform any such duty as such. Ever since the petitioner was nominated as accused, he and his family members have been receiving threats to their lives from fundamentalist organization. Thus considering his medical condition, the petitioner was allowed interim bail on medical ground on May 29, 2019 and there is physical risk to the life of the petitioner while travelling long distance from Hoshiarpur to Faridkot after every two weeks. Since the present case was also transferred by State Govt. by way of Notification u/s 6 of Delhi Special Police Establishment Act transferring the investigation to CBI since

the matter was of sensitive nature. However, this Notification was later on withdrawn and the investigation was handed back to the State police by constituting a SIT who are now proceeding in pick and chose manner by targeting certain police officers.

(7). Learned counsel for the petitioner contended that on each and every date of hearing since presentation of challan in court on 23-4-2019, surcharged atmosphere is created by supporters consisting of radical organizations reached court complex at Faridkot in tractor-trolleys and other modes of transport raising slogans in support of the family of the deceased who are sponsored by vested interest trying to take political/religious mileage. He averred that the security personnel employed in Court Complex are mute spectators to this scene created by such radical elements and the news papers as well as media has been reporting the proceedings of this case extensively after each date of hearing and as such it has become difficult for the petitioner to appear in court without fear of being heckled on the way by these radical elements who raise slogans against petitioner on his face and condemn him by such insinuations and insults like "Quam Da Gaddar".

(8). It is urged that there is serious security risk to the life of the petitioner and this risk becomes even graver when the petitioner has to travel from Hoshiarpur to Faridkot at a distance of 250 kms. on each and every date of hearing and the scenario in which the petitioner is made to face trial at Faridkot, not only provides apprehension, but there is ample evidence to show that it is not possible to provide fare and impartial trial in the court at Faridkot where the petitioner has to undergo surcharged atmosphere and threat of physical attack alongwith mental harassment which violates the right

of the accused for fair and impartial trial besides, there is likelihood of further social unrest as well as flaring up of communal tension which can spark at any time. He also narrated the entire incident in detail and also urged that the petitioner is required to be given police protection and apt arrangements be made to ensure that the proceedings are conducted fearlessly. Reliance has been placed on *CBI vs. Hopson Ningshen (2010) 2 SCC 1268* where the Supreme Court exercising the powers under Section 406 CrPC ordered transfer of trial from Manipur to Delhi.

(9). On the other hand, learned State counsel has filed reply/affidavit dated 19.12.2019 wherein it has been averred that the petitioner was in custody in a case where he has committed a heinous crime and has played active role in the commission of the offence and since the petitioner is a retired police officer, there is apprehension that he may interfere and influence the witnesses as already there are allegations on him of tampering with the evidence. It is submitted that challan under Section 173 CrPC was filed on 24.04.2019 citing as many as 98 number of witnesses who mostly belong to Behbal Kalan at Faridkot, and as such it will not be possible to take all the 98 witnesses to any other Court for trial for recording the evidence, if the present case is transferred from Faridkot to any other Court which may cause reluctance on the part of these witnesses from attending a far off Court, and would irreparably harm the interests of justice.

(10). Learned State counsel then argued that the State is taking adequate care of security of the petitioner and for this purpose, a Nodal Officer of the rank of SP has been deputed to conduct regular review and check the security of the petitioner. He further contended that the petitioner

has not complied with the provisions of Section 407(5) CrPC inasmuch as no notice has ever been served upon the Public Prosecutor. Further, it is vehemently urged that the petitioner has prayed for transfer of trial of only one case i.e. FIR No. 130 dated 21.10.2015, Police Station Bajakhana, Faridkot, whereas, he has been challaned in another FIR No.129 dated 7.8.2018, Police Station City Kotkapura as he has himself admitted in the present petition and the trial of said case i.e. FIR No. 129 dated 7.8.2018, PS City Kotkapura is also pending at Faridkot and as such, there is no occasion for the petitioner to get transfer of trial of one case and continue attending trial at Faridkot in another case.

(11). Heard the submissions and grounds of challenge canvassed at the hands of the learned counsel for the petitioner, as also, the response thereto at the hands of the learned counsel representing the respondents.

(12). A free and fair trial is an important facet of Article 21 of the Constitution even as it forms the foundation of criminal jurisprudence. Fairness of a trial can only be ensured if the process from investigation to conviction is not tainted with bias for or against the accused or the victim. The nature of the criminal justice system in Bharat is such that the involvement of executive in the investigation and prosecution process paves the way for bias in the trial proceedings leaving a vacuum for tampering of evidence and witnesses being intimidated and put in danger are extremely high. This demands for a fair adjudication and independent trial to be conducted in an environment which is free from such abuses and excesses.

(13). The Supreme Court in *Nahar Singh Yadav v. Union of India*, (2011) 1 SCC 307 laid down broad factors to determine the transfer like, the

state machinery and prosecution “working hand in glove with the accused”, probability of physical harm to the witness or the complainant, inconvenience burdened by the parties, communally surcharged atmosphere, and the involvement of hostile individuals in the case.

(14). A more serious ground which disturbs this Court in more ways than one is the alleged absence of congenial atmosphere for a fair and impartial trial. It is becoming a frequent phenomenon in our country that court proceedings are being disturbed by rude hoodlums and unruly crowds, jostling, jeering or cheering and disrupting the judicial hearing with menaces, noises and worse. This tendency of toughs and street roughs to violate the serenity of court is obstructive of the course of justice and must surely be stamped out.

(15). Likewise, the safety of the person of an accused or complainant is an essential condition for participation in a trial and where that is put in peril by commotion, tumult or threat on account of pathological conditions prevalent in a particular venue, the request for a transfer may not be dismissed summarily. It causes disquiet and concern to a court of justice if a person seeking justice is unable to appear, present one's case, bring one's witnesses or adduce evidence.

(16). Indeed, it is the duty of the court to assure propitious conditions which conduce to comparative tranquility at the trial. 'Turbulent conditions putting the accused's life in danger or creating chaos inside the court hall may jettison public justice. If this vice is peculiar to a particular place and is persistent, the transfer of the case from that place may become necessary.

(17). Likewise, if there is general consternation or atmosphere of tension or raging masses of people in the entire region taking sides and polluting the climate, vitiating the necessary neutrality to hold a detached judicial trial, the situation may be said to have deteriorated to such an extent as to warrant transfer.

(18). Reference can be made to **“G.X. Francis v. Banke Bihari Singh, A.I.R. 1958 S.C. 809”**, wherein the Supreme Court held as under:-

*"... But we do feel that good grounds for transfer from Jashpurnagar are made out because of the bitterness of local communal feeling and the tenseness of the atmosphere there. Public confidence in the fairness of a trial held in such an atmosphere would be seriously undermined, particularly among reasonable Christians all over India not because the Judge was unfair or biased but because the machinery of justice is not geared to work in the midst of such conditions. The calm detached atmosphere of a fair and impartial judicial trial would be wanting, and even if justice were done it would not be "seen to be done".*

(19). It is no doubt pertinent to mention that the transfer process itself can cause a lot of inconvenience to witnesses, victim, accused and the state. All of them would on transfer have to travel to the place where transfer is ordered when required, costing time and money for all the interested parties. Since the interest of both the victim and the accused can be at jeopardy in an unfair trial a question arises as to who can claim transfer under this section.

(20). A reference to **Menaka Gandhi vs. Rani Jethmalani, (1979) 4 SCC 167** needs to be made, wherein the Editor of a monthly journal, Mrs.



Menaka Gandhi filed a petition for the transfer of the criminal case of defamation against her from Bombay to Delhi on three grounds; namely,

- (i) that the parties (complainant and petitioners) reside in Delhi and some formal witnesses also belong to Delhi;
- (ii) that the petitioner is not able to procure competent legal service in Bombay; and
- (iii) that the atmosphere in Bombay is not congenial to a fair and impartial trial of the case against her.

(21). Dismissing the petition, the Supreme Court gave certain directions and made strong observations to hold that the assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made, is not the hypersensitivity or relative convenience of the parties or easy availability of legal service or like trivial grievances. Something more substantial, more compelling, more imperiling from the point of view of public justice and its attendant environment is necessitous if the Court is to exercise its powers of transfer. The Court also held that the sophisticated process of criminal trial certainly require competent legal service to present a party's case.

(22). If an accused person, for any particular reason, is virtually deprived of this facility, an essential aid to fair trial fails. If in a certain court the whole Bar, for reasons of hostility or otherwise, refuses to defend an accused person, an extraordinary situation difficult to imagine, having regard to the ethics of the profession- it may well be put forward as a ground which merits the Court's attention. The Court held that in case of many controversial

figures in public life, their presence in a public place gathers partisans for and against, leading to cries and catcalls or 'jais' or 'zindabads'. Nor is it unnatural that some persons may have acquired, for a time a certain quality of reputation, sometimes notoriety, sometimes glory, which may make them the cynosure of popular attention when they appear in cities or even in a court. And when unkempt crowds press into a court hall, it is possible that some pushing, some nudging, some brash ogling or angry staring may occur in the rough and tumble resulting in ruffled feelings for the victim. This is a far cry from saying that the peace inside the court has broken down, that calm inside the court is beyond restoration, that a tranquil atmosphere for holding the trial is beyond accomplishment or that operational freedom for judge, parties, advocates and witnesses has ceased to exist.

(23). At the same time the Court also held that it cannot view with unconcern the potentiality of a flare up and the challenge to a fair trial, in the sense of a satisfactory participation by the accused in the proceedings against her. Engineered fury may paralyse a party's ability to present his case or participate in the trial. If the justice system grinds to a halt through physical manoeuvres or sound and fury of the senseless populace, casualty is of the rule of law. It emphasized that even the most hated human anathema has a right to be heard without the rage of ruffians or huff of toughs being turned against him to unnerve him as party or witness or advocate.

(24). At this stage the power of this Court to transfer the case in appeals deserve consideration. Section 407 CrPC provides for such powers and the same 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, it may order –

(i) that any offence be inquired into or tried by any Court not qualified under Sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative : Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

*(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose :Provided that such stay shall not affect the subordinate Court's power of remand under Section 309.*

*(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application, such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.*

*(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.*

*(9) Nothing in this section shall be deemed to affect any order of Government under Section 197.*

(25). It thus emerges out that whenever it is made to appear to the High Court that a fair and impartial inquiry or trial cannot be held in any criminal court subordinate thereto, or that some question of law of unusual difficulty is likely to arise; or that an order under this section is required by any provision of CrPC, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice, it may order that any particular case, or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction. The High Court may act either on the report of the lower Court or on an application of the party interested or on its own initiative.

(26). Unless an application for such transfer has been made to the Sessions Judge and rejected by him, no application shall lie to the High Court

for transferring a case from one Criminal Court to another Criminal Court in the same sessions division. Every application for an order under sub-section(1) of section 407 of the Code of Criminal Procedure shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation. When an application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7) CrPC. Where the application is for the transfer of a case of appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, in such terms as the High Court may think fit to impose.

(27). The scope of jurisdiction under Section 406 of the Code of Criminal Procedure was also considered in **Surendra Pratap Singh v. State of Uttar Pradesh, (2010) 9 SCC 475**, wherein the Supreme Court held as under:-

*“14. Mr Gupta submitted that except for wild allegations made against the investigating authorities and the officials of the State Government, nothing substantial has been disclosed from the submissions made on behalf of the petitioner which would indicate that either the investigating agencies or the prosecuting agency was in any way biased in favour of Respondent 2. On the other hand, upon a fair investigation undertaken by two separate agencies, which included CB CID, it had been found that Respondent 2 was not in any way connected with the alleged*

*incident of 24-6-2005. In fact, at the relevant time, the party to which he belonged was not in power which would enable him to influence the course of investigation. Mr. Gupta submitted that no interference was called for with the investigation reports submitted both by the local police as also by CB CID, and the transfer petition was, therefore, liable to be dismissed.*

*15. We have carefully considered the submissions made on behalf of the respective parties. While the arrest of Respondent 2 may have been stayed by the High Court, the circumstances in which the incident had occurred on 24-6-2005 coupled with the fact that Respondent 2 was returned as an MLA in the same elections, does to some extent justify the apprehension of the petitioner that the perspective of the prosecution may become polluted. There is no getting away from the fact that Respondent 2 is an MLA and that too belonging to the present dispensation. Since justice must not only be done but must also seem to be done, this case, in our view, is an example where the said idiomatic expression is relevant.*

*16. It would not be proper on our part to dilate on this question further during the pendency of the trial. We are, however, of the view that in order to do fair justice to all the parties, the trial should be held outside the State of Uttar Pradesh and, accordingly, we allow the transfer petition and direct that the matter be transferred to the High Court of Madhya Pradesh which shall decide the place and the court before which the trial may be conducted."*

(28). The issue in hand was also examined in **Nahar Singh Yadav v. Union of India, (2011) 1 SCC 307** wherein the Supreme Court delineated the parameters which ought to be kept in mind while considering an application for transfer, the same reads as under:-

*“...This power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial. Some of the broad factors which could be kept in mind while considering an application for transfer of the trial are:-*

*(i) when it appears that the State machinery or prosecution is acting hand in glove with the accused, and there is likelihood of miscarriage of justice due to the lackadaisical attitude of the prosecution;*

*(ii) when there is material to show that the accused may influence the prosecution witnesses or cause physical harm to the complainant;*

*(iii) comparative inconvenience and hardships likely to be caused to the accused, the complainant/the prosecution and the witnesses, besides the burden to be borne by the State Exchequer in making payment of travelling and other expenses of the official and non-official witnesses;*

*(iv) a communally surcharged atmosphere, indicating some proof of inability of holding fair and impartial trial because of the accusations made and the nature of the crime committed by the accused; and*

*(v) existence of some material from which it can be inferred that the some persons are so hostile that they are interfering or are likely to interfere either directly or indirectly with the course of justice.”*

(29). The above parameters have to be tested in contrast with the factual aspects as highlighted in the instant case. The petitioner has sought transfer of the trial in case FIR No.130 dated 21.10.2015 registered at Police Station Bajakhana, District Farikot from the court of Sessions Judge, Faridkot to any Court in State of Haryana or UT Chandigarh in view of the letter dated

11.11.2019 (Annexure P17) which relates to security of the petitioner, who is an ex-SSP and as such, instructions have been issued regarding security arrangements in view of the threats to life of the petitioner from Khalistan terrorists, associations of pro-Khalistan ideology and other radicalists. This argument of the petitioner is further supplemented by another communication dated 13.06.2022 (Annexure P19) vide which the SSP, Faridkot has informed the ADGP (Law & Order), Punjab regarding deputing of additional force on the date of hearing in the Court complex in view of the apprehension of attempt by the extremist Sikh people for causing loss or hurt to the said persons.

(30). An instance has been quoted by placing reliance on Annexure P21 which is an FIR No.228 dated 10.11.2022 under Sections 302/307/148/149/120-B IPC and Section 25 of Arms Act registered at Police Station City Kotkapura, District Faridkot for the murder of Pardeep Kataria. The deceased, who was accused in FIR No.63 dated 02.06.2015 registered at PS Bajakhana, FIR No.117 dated 25.09.2015 registered at PS City Moga and FIR No.128 dated 12.10.2018 registered at PS Bajakhana all relating to incidents of sacrilege, was murdered in broad day-light despite being provided security by the State Government. Various news items have also been placed on record as Annexure P22 which are shrouded with the incidents relating to sacrilege to show the law and order situation in the region.

(31). Learned counsel for the petitioner also brought to the notice of this Court an order dated 28.02.2023 passed by the Supreme Court in a batch of four transfer petitions including **Transfer Petition (Criminal) No.284 of**



**2020 Sukhjinder Singh @ Sunny & Ors. Vs. State of Punjab** wherein the trial of FIRs as mentioned by the petitioner in the writ petitions, have been transferred. The relevant extracts of the said order read as under:-

*“Under these circumstances, the apprehension of the petitioners cannot be rejected outright as being unfounded and taking an overall view of the petitioners’ plea, in our opinion, it would be expedient for the ends of justice if the cases are transferred to a Court of competent jurisdiction within the Union Territory of Chandigarh. We have taken this view upon considering the judgment of the learned Single Judge delivered on 25 th November 2020. But in that judgment, one of the factors which was weighed by the learned Single Judge was that with passage of time, the atmosphere ought to have mellowed down. In the cases before the learned Single Judge, the incidents were of 2015. Same is the year of incident before us as well, but as it has been submitted before us, persons accused in such offences had faced assault after the said judgment was delivered.*

*We make it clear, however, that the reason for passing this order is solely based on apprehension of safety and security of the petitioners, who are accused persons, as well as the defence witnesses and this order of transfer must not be construed to cast any doubt or aspersion on impartiality of the concerned Court or any lapse or deficiency of the law enforcement agency.*

*We, accordingly, allow these transfer petitions and request the learned Chief Justice of High Court of Punjab and Haryana to allocate the cases to an appropriate Court within the Union Territory of Chandigarh. As the cases are being transferred from the Courts of the State of Punjab to Courts subordinate to the same High Court, we invoke our jurisdiction under [Article 142](#) of the Constitution of India to effect transfer of these cases. We accordingly direct that cases registered as:-*

(a) CHI/178/2020 titled “State v. Randeep Singh alias Neela & Ors.” arising out of FIR No.63/2015 dt. 02.06.2015 registered at P.S. Bajakhana, district Faridkot pending in the Court of Judicial Magistrate First Class, Faridkot, Punjab.

(b) SC/170/2018 titled “State v. Mohinderpal @ Bittu & Ors.” arising out of FIR No.33/2011 dt.07.03.2011 registered at P.S. City Moga, district Moga pending in the Additional Sessions Court, Moga, Punjab.

(c) CHI/284/2021 titled “State v. Sukhjinder Singh & Ors.” arising out of FIR No.117/2015 dt.25.09.2015 registered at P.S. Bajakhana, district Faridkot pending in the Court of Chief Judicial Magistrate, Faridkot, Punjab.

(d) CHI/275/2021 titled “State v. Sukhjinder Singh & Ors.” arising out of FIR No.128/2015 dt.12.10.2015 registered at P.S. Bajakhana, district Faridkot pending in the Court of Chief Judicial Magistrate, Faridkot, Punjab.

*be placed before the learned Chief Justice of the High Court of Punjab and Haryana for being allocated to a Court of competent jurisdiction within the Union Territory of Chandigarh. Pending application(s), if any, shall stand disposed of.*

(32). A perusal of the above order would show the Apex Court has ordered transfer of FIR No.63/2015 dt. 02.06.2015 registered at P.S. Bajakhana, district Faridkot, FIR No.33/2011 dt.07.03.2011 registered at P.S. City Moga, district Moga, FIR No.117/2015 dt.25.09.2015 registered at P.S. Bajakhana, district Faridkot and FIR No.128/2015 dt.12.10.2015 registered at P.S. Bajakhana, district Faridkot, all relating to the trial of those persons who were allegedly connected to the incident of sacrilege, from Faridkot to the competent Court at UT Chandigarh solely keeping in view the apprehension

of safety and security of the accused persons, as well as the defence witnesses.

(33). Learned State counsel has also handed over a copy of the zimni order dated 29.01.2024 passed by Additional Sessions Judge, Faridkot in SC-69-2019 to show that the trial of the petitioner has been adjourned for the purpose of charge and for consideration on the application moved by the petitioner for dropping of proceedings on the ground of lack of sanction for prosecution.

(34). Undoubtedly, the power under Section 407 CrPC has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial, however, in keeping in mind the peculiar factual and law and order situation particularly the life and security of the accused and other witnesses in the present case, the broad parameters as laid down in Nahar Singh's case (supra) are made out inasmuch as the documents placed on record and the instances quoted by the petitioner are sufficient enough to indicate that if trial is permitted to continue at Faridkot that may create communally surcharged atmosphere for holding fair and impartial trial. Furthermore, since the Apex Court itself has transferred the trial of all the FIRs, referred to above, relating to the said sacrilege incident from Moga and Faridkot to UT Chandigarh, this Court sees no reason for it to deviate from the order passed by the Apex Court.

(35). Accordingly, this petition under Section 407 CrPC is allowed and the trial of FIR No.130 dated 21.10.2015 under Sections 302, 307, 34, 201, 218, 120-B IPC and Sections 25 & 27 of Arms Act, 1959 registered at Police Station Bajakhana, District Faridkot (Annexure P2) now pending in

the Court of Sessions Judge, Faridkot is transferred to the Court of competent jurisdiction at Union Territory of Chandigarh.

(36). Ordered accordingly.

31.05.2024

*V.Vishal*

*1. Whether speaking/reasoned?*

*2. Whether reportable?*

**(Sandeep Moudgil)**  
**Judge**

*Yes/No*

*Yes/No*