

Court No. - 83

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 672 of 2024

Applicant :- Smt Kavita Chaudhary

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Mohit Kumar Jaiswal, Nasiruzzaman

Counsel for Opposite Party :- Aditya Gupta, G.A.

Hon'ble Ms. Nand Prabha Shukla, J.

Heard Sri Nasiruzzaman, learned counsel for the applicant, Sri Gopal Chaturvedi, learned Senior Advocate assisted by Sri Aditya Gupta, learned counsel for the opposite party nos. 2 to 4 and Sri Ratan Singh, learned A.G.A. for the State and perused the record.

The present application under section 407 of Cr.P.C. has been filed by the applicant seeking transfer of Sessions Trial No. 30 of 2024 (State vs. Nitin Dagar and others) in Case Crime No.547 of 2023, under Sections 302/34, 120B/302 IPC and Section 3/25/27 of Arms Act, P.S. Sihani Gate, District Ghaziabad pending in the Court of Additional Sessions Judge, Court No.13, Ghaziabad to be transferred to any other competent Court at Aligarh mainly on the ground that respondent nos. 2 and 3 are the practicing Advocates and the applicant being a poor widow is under their threat perception and is unable to procure any competent Lawyer to contest her case.

Learned counsel for the applicant has contended that threats have been extended by the opposite party no. 2 Nitin Dagar from the jail whereas the co-accused opposite party no.3 Amit Dagar and opposite party no. 4 Anuj @ Palu have extended threats from outside the jail. Amit Dagar and Nitin Dagar are the practicing Advocates at Ghaziabad and due to which the applicant is not able to engage a competent Advocate. Further, it has been asserted that the applicant being a poor widow, is staying at Aligarh along with her father Vijay Singh and her brother Dinesh Singh, who is an eye witness account in the said Sessions Trial. The applicant is apprehensive for their life and limb and has even approached the police authorities to provide them the security guards.

In this regard, a report was sought on 17.01.2025 from the Presiding Officer concerned.

Pursuant to the same, the report of the concerned Presiding Officer dated 30.01.2025 endorsed by District Judge, Ghaziabad has been received, reporting that amongst the three named accused, two of them are the officiating members of the Bar. It has further been informed that adequate security was provided to the applicant Smt. Kavita Chaudhary who already has been examined as P.W.1 and have further ensured to provide security to the witnesses during the recording of their evidence.

Per contra, learned counsel for the opposite party nos.2 to 4 has opposed the aforesaid prayer but agreed to cooperate in the trial proceedings.

Upon hearing learned counsel for the parties and after taking into consideration the entire facts and circumstances, it transpires that the trial is at the stage of evidence and the applicant/informant was provided adequate security at the time of the recording of the evidence as PW-1 and further considering the fact that the applicant has not brought on record any real apprehension of threat from the respondents accused but looking to the convenience of the parties and in the interest of justice, it is hereby provided that in case, the applicant/first informant or any of the witnesses approaches the authorities concerned by moving an application seeking protection under the **Witness Protection Scheme, 2018** in the light of directions given by the Hon'ble Supreme Court in the case of **Mahendra Chawla and others vs. Union of India and others, (2019) 14 SCC 615** for a free and fair trial, the authorities concerned shall ensure that the adequate security be provided to the applicant and the witnesses till the conclusion of the trial.

With the aforesaid directions, the present application stands **disposed of**.

Order Date :- 6.2.2025

Monika