



2025:CGHC:32743

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

TPCR No. 14 of 2025

Chandrashekhar Agrawal S/o Ganesh Prasad Agrawal, aged about 42 years R/o House No. A-4, in front of P.S. City, New Changorabhata, Raipur, Police Station- D.D. Nagar, District- Raipur (C.G.)

... Petitioner

versus

1 - State of Chhattisgarh Through Station House Officer, Police Station- D.D. Nagar, District- Raipur (C.G.)

2 - City Superintendent of Police At Purani Basti, Raipur, District Raipur (C.G.)

3 - XYZ

4 - Dileshwar Sahu S/o Ramnath Sahu, aged about 23 years R/o Village - Belsari, P.S.- Fasterpur, presently residing at Indraprasth, Block-E, H. No. 406, P.S. D.D. Nagar, Raipur, District- Raipur (C.G.)

5 - Parmeshwar Sahu S/o Ramnath Sahu, aged about 28 years R/o Village- Belsari, P.S. -Fasterpur, presently residing at Indraprasth, Block- E, H. No. 406, P.S. Police Station- D.D. Nagar, District- Raipur (C.G.)

6 - Ramnath Sahu S/o Purushottam Sahu, aged about 55 years R/o Village- Belsari, P.S. -Fasterpur, presently residing at Indraprasth, Block- E, H. No. 406, P.S. Police Station- D.D. Nagar, District- Raipur (C.G.)

7 - Neha Sao D/o Basant Sao, aged about 27 years R/o Village Jagdishpur, P.S. Basna, Distt. Mahasamund (C.G.)

... Respondents

For Petitioner	: Mr. Kishore Bhaduri, Senior Advocate assisted by Mr. Kishore Narayan, Advocate
For State/Res. Nos. 1&2	: Mr. Jitendra Shrivastava, Govt. Advocate
For Respondent No.3	: Mr. Goutam Khetrapal, Advocate
For Respondent Nos. 4 & 5	: Mr. Arvind Prasad, Advocate
For Respondent Nos. 6 & 7	: Mr. Pragalbha Sharma, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

14.07.2025

1. Heard Mr. Kishore Bhaduri, learned Senior Advocate assisted by Mr. Kishore Narayan, learned counsel for the petitioner. Also heard Mr. Jitendra Sharma, learned Government Advocate, appearing for the State/respondent Nos. 1 & 2, Mr. Goutam Khetrapal, learned counsel, appearing for respondent No.3, Mr. Arvind Prasad, learned counsel, appearing for respondent Nos.4 & 5 and Mr. Pragalbha Sharma, learned counsel, appearing for respondent Nos. 6 & 7.
2. The instant petition U/s 447 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') has been preferred by the petitioner for transfer of a Criminal Trial titled "State Vs. Dileshwar Sahu & Others", Criminal Special Atrocities Case No. 46/2023 pending before the Court of Special Judge, SC/ST (Prevention of Atrocities) Act, Raipur (C.G.) (for short, 'Special Judge') to any

other Competent Court within the District of Raipur or any other competent Court of any other nearby District within the State of Chhattisgarh on the ground that the learned Special Judge is having personal bias against the petitioner and upon his instruction, the petitioner has been falsely implicated in the present case.

3. Case of the prosecution, if brief, is that the victim / respondent No.3 had lodge a written complaint before Police Station D.D. Nagar Raipur, C.G. stating that she got acquainted with accused Parmeshwar Sahu 5 years back while studying LL.B. Course at Raipur, thereafter, they started practicing in Raipur District Court. In the year 2019, the accused Parmeshwar Sahu proposed the prosecutrix for marriage knowing that she is member of scheduled caste and he subjected her to physical relation on the pretext of marriage. Thereafter, though the accused Parmeshwar Sahu refused to marry her, but still continued physical intercourse without her consent, due to which she became 9 months pregnant. On the basis of said written complaint, FIR was lodged on 23.06.2023 under Section 376, 376(2)(n) of IPC against accused Parmeshwar Sahu.
4. During investigation statement under Section 164 CrPC of the victim was also recorded on dated 22.07.2023 in which also she narrated the same story and had made further statement against the other accused persons that they have accompanied the prime accused Parmeshwar Sahu and have ride to forcibly administer

some poisonous substance in order to kill her. Thereafter, charge-sheet was filed against accused Dileshwar Sahu S/o Ramnath Sahu on 20.08.2023 under Section 376, 376(2)(n), 511, 34 of IPC and Section 294, 323, 506-B, 313, 342, 417 of IPC. In the said charge-sheet, accused Dileshwar Sahu was shown as arrested accused and Parmeshwar Sahu, Ramnath Sahu and Neha Sahu were shown as absconder. It has been further shown that investigation is pending regarding the role of suspected accused Chandrashekhar Agarwal (present petitioner) in the case. In the meanwhile, the other 3 accused persons, namely, Parmeshwar Sahu, Ramnath Sahu and Neha Sahu were granted anticipatory bail by this Court in CRA No. 121/2024, CRA 1811/2023 and CRA No. 143/2024 respectively and accused namely Dileshwar Sahu has been granted regular bail in CRA No. 1799/2023. Thereafter, there is no supplementary charge sheet in respect of these accused persons.

5. Apprehending from his arrest, the petitioner has filed anticipatory bail application before the Special Judge on 13.03.2025, which was dismissed on 25.03.2025. Thereafter, the petitioner has filed a Criminal Appeal being CRA No. 478/2025 challenging his anticipatory bail rejection order, but before hearing of the said anticipatory bail application, the petitioner was arrested on 08.04.2025 and he was produced before the Special Judge and a regular bail application was filed by the petitioner on the same date. The said regular bail application was dismissed by the

Special Judge and the petitioner was in jail for considerable period until his bail application in form of Criminal Appeal is decided by this Court. Thereafter, present petition has filed by the petitioner for transfer of Criminal Special Atrocities Case No. 46/2023 pending before the Court of Special Judge to any other Competent Court within the District of Raipur or any other competent Court of any other nearby District within the State of Chhattisgarh on the ground that the learned Special Judge is having personal bias against the petitioner and upon his instruction, the petitioner has been falsely implicated in the present case.

6. Vide order 12.06.2025, this Court had called comments from the concerned Presiding Officer.
7. In compliance of the order dated 12.06.2025, the concerned Presiding Officer has submitted his comments, whereby it has been informed that
 - On the basis of the written complaint submitted by the victim, a member of Scheduled Caste, who herself is an Advocate in Raipur Court, Police Station DD Nagar Raipur has registered Crime No. 310/2023 and a charge sheet was presented before the former Presiding Officer on 13.10.2023 against the accused Dileshwar Sahu. In the said charge sheet, the main accused Parmeshwar Sahu (who is an Advocate in Raipur Court) and Neha Sahu

(who is an Advocate in Raipur Court) and Ramnath Sahu mentioned in the written complaint have been shown as absconding, and in relation to the petitioner, Chandrashekhar Agarwal (who is also an Advocate in Raipur Court), it has been mentioned that 'investigation regarding the role of suspected accused Chandrashekhar Agarwal is pending, investigation under Section 173 (8) Cr.P.C. has been kept pending, after completing the investigation, a supplementary charge sheet will be submitted separately. The said case is pending in this Court, having been registered as Special Criminal Case No. 46/2023, in which the above case is being heard by him impartially in a completely legal manner and he had not taken any illegal action against the petitioner.

- It has been further stated that the former Presiding Officer had started the trial only against co-accused Dileshwar Sahu of this case, without presenting the charge-sheet against the main accused Parmeshwar Sahu and other co-accused Ramnath Sahu and Neha Sahu. During the trial of the said case, when the victim of the case appeared before him (Special Judge) in the Court for evidence, she expressed her desire not to record her statement in the Court due to non-presentation of charge-sheet against the petitioner and other co-accused of this case, and alleged that when the charge-sheet has not

been presented against the main accused Parmeshwar Sahu and other accused and the petitioner, then how can she record her statement in the Court against the only co-accused Dileshwar Sahu? and she also submitted a written application in this regard to the Court, whereby requested to take said action against all the accused in this case.

- It has been also stated that when the said Court sought a report from the Investigating Officer of the concerned police station on the above written application of the victim of the case, the petitioner again tried to delay the investigation. During the investigation of the case, the Investigating Officer of the case, finding *prima facie* case against the petitioner, arrested him and a supplementary charge-sheet was filed against the petitioner and other accused on 26.06.2025.

8. Transfer of cases from one Court to another is a serious matter particularly when transfer is sought by making allegations against Presiding Officer. It sometimes indirectly causes doubt on the integrity and competence of Presiding Officer of the Court from whom the matter is transferred. In cases where ground for transfer is likelihood of bias of Presiding Officer, it is onerous duty of Court to see, whether such ground has been substantiated with reasonable certainty or not. It should not be done without a proper and sufficient cause.

9. In ***Maneka Sanjay Gandhi Vs. Rani Jethmalani, (1979) Cri.L.J. 458 (SC)*** the Hon'ble Supreme Court has said:

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 a party or easy availability of legal services or like mini 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 power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case.

10. One of the common ground which generally is taken is of distrust in Presiding Officer of the Court. Here the Courts have to be very careful while passing the orders for transfer of case.
11. The allegations of bias of Presiding Officer, if made the basis for transfer of case, before exercising power under Section 447 of BNSS, the Court must be satisfied that the apprehension of bias or prejudice is *bona fide* and reasonable. The expression of apprehension, must be proved/ substantiated by circumstances and material placed by such applicant before the Court. It cannot be taken as granted that mere allegation would be sufficient to justify transfer.
12. Mere suspicion by the party that he will not get justice would not justify transfer. There must be a reasonable apprehension to that effect. A judicial order made by a Judge legitimately cannot be made foundation for a transfer of case. Mere presumption of

possible apprehension should not and ought not be the basis of transfer of any case from one Court to another. It is only in very special circumstances, when such grounds are taken, the Court must find reasons exist to transfer a case, not otherwise. See *Rajkot Cancer Society vs. Municipal Corporation, Rajkot*, AIR 1988 Gujarat 63; *Pasupala Fakruddin and Anr. vs. Jamia Masque and Anr.*, AIR 2003 AP 448; and, *Nandini Chatterjee vs. Arup Hari Chatterjee*, AIR 2001 Calcutta 26.

13. Where a transfer is sought making allegations regarding integrity or influence etc. in respect of the Presiding Officer of the Court, this Court has to be very careful before passing any order of transfer.
14. In the matters where reckless false allegations are attempted to be made to seek some favourable order, either in a transfer application, or otherwise, the approach of Court must be strict and cautious to find out whether the allegations are bona fide, and, if treated to be true on their face, in the entirety of circumstances, can be believed to be correct, by any person of ordinary prudence in those circumstances. If the allegations are apparently false, strict approach is the call of the day so as to maintain not only discipline in the courts of law but also to protect judicial officers and maintain their self esteem, confidence and above all the majesty of institution of justice.
15. The justice delivery system knows no caste, religion, creed, colour

etc. It is a system following principle of black and white, i.e., truth and false. Whatever is unfair, that is identified and given its due treatment and whatever is good is retained. Whoever suffers injustice is attempted to be given justice and that is called dispensation of justice. The prevailing system of dispensation of justice in Country, presently, has different tiers. At the ground level, the Courts are commonly known as "District Judiciary" and they form basis of administration of justice. Sometimes it is said that district judiciary forms very backbone of administration of justice. Though there are various other kinds of adjudicatory forums and then various kinds of Tribunals etc. but firstly they are not considered to be the regular Courts for adjudication of disputes, and, secondly the kind and degree of faith, people have, in regular established Courts, is yet to be developed in other forums. In common parlance, the regular Courts, known for appropriate adjudication of disputes basically constitute district judiciary, namely, the District Court; the High Courts and the Apex Court.

16. The hierarchy gives appellate and supervisory powers in various ways. The supervisory control of District judiciary has been conferred upon High Court, which is the highest Court at provincial level and is under constitutional obligation to see effective functioning of District Courts by virtue of power conferred by Article 235 read with 227 of the Constitution of India.
17. If there is a deliberate attempt to scandalize a judicial Officer of

District Court, the damage is caused not only to the reputation of the concerned Judge, but, also to the fair name of judiciary. The foundation of our system is based on the independence and impartiality of the men having responsibility to impart justice i.e. Judicial Officers. If their confidence, impartiality and reputation is shaken, it is bound to affect the very independence of judiciary. Any person, if allowed to make disparaging and derogatory remarks against a Judicial Officer, with impunity, is bound to result in breaking down the majesty of justice. Reference may be made to the judgment of the High Court of Allahabad in the case of ***Amit Agrawal vs. Atul Gupta***, reported in ***2014 SCC OnLine All 16200***.

18. There is no manner in which a judicial officer may wear his impartiality on his sleeves. Scandalizing a judicial Officer of District Court is bound to shake confidence of the litigating public in the system and has to be tackled strictly.
19. In the light of the above exposition of law, the pleadings in the case in hand have been examined. The grounds taken by petitioner are vague and wholly unsubstantiated.
20. It is established from record that on the basis of the written complaint submitted by the victim, a member of Scheduled Caste, who herself is an Advocate in Raipur Court, Police Station DD Nagar Raipur has registered Crime No. 310/2023 and a charge sheet was presented before the former Presiding Officer on

13.10.2023 only against the accused Dileshwar Sahu and rest of the co-accused, namely Parmeshwar Sahu, who is main accused and is an Advocate in Raipur Court and Neha Sahu, who is also an Advocate in Raipur Court and Ramnath Sahu mentioned in the written complaint have been shown as absconding, and in relation to the petitioner, Chandrashekhar Agarwal (who is also an Advocate in Raipur Court), it has been mentioned that 'investigation regarding the role of suspected accused Chandrashekhar Agarwal is pending, investigation under Section 173 (8) Cr.P.C. has been kept pending, after completing the investigation, a supplementary charge sheet will be submitted separately.

21. It is further established that when the victim of the case appeared before the Presiding Officer for evidence, she expressed her desire not to record her statement in the Court due to non-presentation of charge-sheet against the petitioner and other co-accused of this case, and alleged that when the charge-sheet has not been presented against the main accused Parmeshwar Sahu and other accused including the petitioner, then how can she record her statement in the Court against the only co-accused Dileshwar Sahu? and she also submitted a written application in this regard to the Court, whereby requested to take said action against all the accused in this case.
22. It is also established that during the investigation of the case, the Investigating Officer of the case, finding *prima facie* case against

the petitioner, arrested him and a supplementary charge-sheet was filed against the petitioner and other accused on 26.06.2025.

23. The allegation of bias by mere fact of an adverse order is not sufficient to justify transfer unless it is also substantiated by relevant material, which is not the case in hand. Moreover, the accused and complainant both are the Advocates. As such, I do not find any good ground interference in the present matter.
24. Accordingly, the petition being devoid of merits, stands **dismissed**.

Sd/-

(Ramesh Sinha)
Chief Justice

Preeti/Chandra

Head-Note

Mere presumption of possible apprehension should not and ought not be the basis of transfer of any case from one Court to another. It is only in very special circumstances, when such grounds are taken, the Court must find reasons exist to transfer a case, not otherwise.