



CGHC010216562026



2026:CGHC:32420

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

TPCR No. 10 of 2026

Karun Dahariya S/o Late Shivnandan Dahariya Aged About 37 Years
R/o- M.P. Nagar P.S. - Korba, District- Korba (C.G.), Official Residence-
Kusmi, District- Balrampur- Ramanujganj (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through Police Station Karondha, District-
Balrampur- Ramanujganj (C.G.)

2 - Shri Hemant Saraf Principal District Judge Ramanujganj District
Balrampur Ramanujganj C.G. As Per Hon'ble Court Order Dated 21-07-
2026.

... **Respondent(s)**

For Petitioner(s) : Mr. Himanshu Pandey, Advocate.

For Respondent No.1/State : Mr. Sourabh Sahu, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

28/07/2026

1. Heard Mr. Himanshu Pandey, learned counsel for the petitioner.
Also heard Mr. Sourabh Sahu, learned Panel Lawyer, appearing
for the respondent No.1/State.

2. The petitioner has filed the present petition under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS"), seeking transfer of Special Sessions Trial ST/Atrocities bearing No.13/2026 (State v. Karun Dahariya & Others) pending before the Court of the learned District & Sessions Judge/Special Judge, SC/ST (Prevention of Atrocities) Act, Ramanujganj, District Balrampur-Ramanujganj (C.G.), to any other Court of competent jurisdiction outside District Balrampur-Ramanujganj.
3. Brief facts necessary for the case are that the petitioner is facing trial in Special Sessions Trial (ST/Atrocities) No. 13/2026 titled State Vs. Karun Dahariya & Others, pending before the Court of the learned District & Sessions Judge, Ramanujganj, District Balrampur-Ramanujganj, arising out of Crime No. 03/2026 registered at Police Station Korandha for offences punishable under Sections 103(1), 115(2), 3(5), 109(1), 296 and 238 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(2)(V), 3(1) and 3(1)(H) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The prosecution alleges that on 15.02.2026, at about 9:00 p.m., the petitioner, along with other accused persons, assaulted deceased Ram @ Ramnaresh and injured persons Ajit Ram and Akash Agariya over allegations relating to illegal bauxite mining and transportation, as a result of which Ram @ Ramnaresh succumbed to his injuries. The petitioner was arrested on 16.02.2026 and the charge-sheet was filed on 14.05.2026. The grievance of the petitioner is not confined

to the merits of the prosecution case but relates to the manner in which the trial is being conducted. It is alleged that an incomplete copy of the charge-sheet was initially supplied, the electronic records relied upon by the prosecution were not furnished, and despite objections and an application under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking complete documents, the case was proceeded with in undue haste by fixing arguments on charge and prosecution evidence without granting sufficient opportunity to prepare the defence. The petitioner further alleges that during the course of the proceedings, the learned Presiding Officer made several remarks indicating a preconceived opinion regarding the guilt of the accused, directed the Investigating Officer to ensure that witnesses did not turn hostile and deposed in accordance with their police statements, made comments to the petitioner's wife and elder brother regarding the merits of the case, referred to facts not forming part of the prosecution record, and passed witness protection orders without granting adequate opportunity to the defence. It is also alleged that the learned Trial Judge refused to consider the preliminary inquiry report of the Collector, produced by the petitioner in support of his defence, while making oral observations reflecting bias against the defence case. According to the petitioner, the cumulative effect of the aforesaid circumstances has given rise to a bona fide and reasonable apprehension that he will not receive a fair, impartial and unbiased

trial before the present Court, necessitating the filing of the present transfer petition.

4. Learned counsel for the petitioner submits that the conduct and repeated remarks allegedly made by the learned Presiding Officer disclose an apparent pre-judgment of the issues involved in the trial. The observations allegedly indicating that the Court already knew the facts of the case, that the petitioner had committed the offence, and that he would not escape conviction, even before commencement of evidence, have created a bona fide and reasonable apprehension in the mind of the petitioner that he will not receive a fair, impartial and unbiased trial. He further submits that the learned Presiding Officer allegedly made remarks regarding the manner in which prosecution witnesses should depose, directed that they should not turn hostile and should testify in accordance with their police statements, besides making observations on facts beyond the prosecution record and in the presence of witnesses. Such conduct is capable of influencing witness testimony and undermines the fundamental requirement that a criminal trial must be decided solely on the basis of evidence adduced before the Court. He also submits that the cumulative effect of the aforesaid circumstances, including the alleged interaction with the petitioner's wife, comments reflecting a preconceived view of the prosecution case, and the refusal to consider the defence material, has given rise to a genuine and reasonable apprehension of bias. Since justice must not only be

done but must also appear to have been done, transfer of the present Sessions Trial is necessary in the interest of justice to preserve public confidence in the fairness and impartiality of judicial proceedings.

5. Learned counsel for the petitioner later submits that after filing of the present Transfer Petition, several subsequent events have taken place during the pendency of the trial, which have a direct bearing on the issues raised herein and have further strengthened the petitioner's bona fide apprehension that they may not receive a fair, impartial and procedure-compliant trial. It is submitted that the petitioner was initially supplied with an incomplete charge-sheet without the electronic records relied upon by the prosecution, and despite repeated objections and an application under Section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023, adequate opportunity to examine the digital evidence was not granted. The learned Trial Court proceeded to frame charges and fixed consecutive dates for prosecution evidence without supplying a proper trial programme or considering the petitioner's procedural objections. Applications seeking disclosure of complete investigation material, forensic examination of electronic evidence, and compliance with the directions of the Hon'ble Supreme Court in *In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials* were also rejected without proper consideration. He also submits that during the course of the trial, several further procedural irregularities

occurred which, according to the petitioner, seriously affect the fairness of the proceedings. The learned Trial Court granted witness protection on the very day the application was moved without supporting material, rejected the defence counsel's request for virtual appearance despite medical exigency and the applicable High Court guidelines, refused to supply the electronic record forming part of the judicial proceedings under Section 183 BNSS/164 Cr.P.C., and dismissed various defence applications without awaiting the prosecution's written reply. The petitioner further submits that although the Trial Court declined to direct forensic examination of the prosecution's electronic evidence on the ground that its admissibility would be considered at the appropriate stage, it subsequently adopted a different approach in respect of the defence electronic evidence by observing that the defence pen drive appeared to be edited, directing its forensic examination through the Investigating Agency/Superintendent of Police despite allegations having been raised against them, and issuing directions for strict action against the petitioner without any prayer made by the prosecution.

6. He lastly submits that the subsequent proceedings have further reinforced the petitioner's apprehension of bias inasmuch as the examination of prosecution witnesses was initially conducted by a Public Prosecutor instead of the duly appointed Special Public Prosecutor under the SC/ST (Prevention of Atrocities) Act, 1989, and thereafter, on several occasions, the learned Presiding Officer

himself conducted the examination-in-chief of prosecution witnesses despite objections raised by the petitioner. It is further alleged that the learned Presiding Officer permitted leading questions after declaring a witness hostile, while objections raised by the defence were not considered. According to the petitioner, the cumulative effect of these subsequent developments demonstrates continued procedural irregularities and inconsistent judicial approach, thereby further strengthening the bona fide apprehension that the petitioner may not receive a fair, impartial and unbiased trial before the learned trial Court.

7. Learned counsel appearing for State/respondent No.1 opposes the submission advanced by learned counsel for the petitioner and submits that the present Transfer Petition is wholly misconceived, devoid of merits and liable to be dismissed in limine. The petitioner seeks transfer of a duly instituted criminal trial solely on the basis of vague, bald and unsubstantiated allegations allegedly attributed to the learned Presiding Officer, none of which are borne out from the judicial record or supported by any independent or reliable material. It is a settled principle of law that transfer of a criminal case is an extraordinary power to be exercised sparingly and only upon existence of a real and reasonable apprehension of failure of justice. Mere subjective perceptions, conjectures or self-serving affidavits of interested witnesses cannot constitute a valid ground for transfer, particularly when no judicial order demonstrating bias, prejudice or

predetermined adjudication has been pointed out. He further submits that the trial arises out of serious offences, including offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and has already reached the stage of trial after completion of investigation and filing of the charge-sheet. The present petition appears to have been filed only to delay the proceedings. The grievances raised by the petitioner regarding supply of documents, procedural orders, fixation of dates, witness protection proceedings and alleged oral observations of the learned trial Court are either denied or are matters capable of being addressed before the trial Court or the appropriate appellate/revisional forum in accordance with law and do not furnish any ground for transfer of the trial. He also submits that the petitioner's reliance on the alleged preliminary inquiry report of the Collector is wholly misplaced, as investigation and filing of the charge-sheet are statutory functions of the police under the BNSS, and any administrative inquiry cannot override or substitute a criminal investigation. The petitioner has failed to produce any objective material establishing actual bias or even a reasonable apprehension of bias, or to show that any witness has been influenced or prejudiced by the learned trial Court. In the absence of any compelling or exceptional circumstance satisfying the settled parameters governing transfer of criminal proceedings, the present petition deserves to be dismissed.

8. In compliance with the Court's order dated 21.07.2026, the concerned Presiding Officer has filed his comments stating that the charge-sheet in Special Sessions Trial No. 13/2026 was presented on 14.05.2026 and the proceedings have thereafter been conducted strictly in accordance with law. It is stated that upon the request of the petitioner/accused, copies of the charge-sheet and digital records were supplied, adequate time was granted for perusal and pre-charge arguments, and thereafter charges were framed. The petitioner, who was lodged in Central Jail, Ambikapur, was produced through video conferencing whenever necessary. It is further stated that despite repeated requests for adjournments on behalf of the petitioner, sufficient opportunities were granted to cross-examine prosecution witnesses, and wherever cross-examination could not be undertaken on a particular date, fresh dates were provided. According to the Presiding Officer, all judicial orders were passed after considering the submissions of the parties and in accordance with law. He further stated that the prosecution witnesses are poor tribal villagers who had approached the Court expressing apprehension that they were being threatened and pressurised by the accused and politically influential persons to change their statements. On their request, a communication was sent to the Superintendent of Police for providing protection to the witnesses and the matter was taken up for expeditious trial, particularly as the petitioner had earlier served as an SDM in the

same area where several witnesses belonged. It is also stated that except for the present petitioner, none of the other three co-accused have expressed any lack of confidence in the Court. The allegations levelled by the petitioner's wife against the Presiding Officer have been described as false and baseless, and it has been asserted that no prejudice has ever been shown against any accused and that the case is being decided solely on its own merits. He also stated that all applications moved by the parties, including the additional documents subsequently filed by the petitioner, were disposed of by reasoned judicial orders, none of which have been shown to have been challenged before any superior forum. According to the comments, the repeated applications filed by the petitioner appear to be intended to delay the progress of the trial, whereas the Court has consistently afforded full opportunity to the defence for cross-examination of witnesses. Lastly, the Presiding Officer has stated that although the allegations against the Court are unfounded, he has no objection if this Court, in exercise of its jurisdiction, considers it appropriate to transfer the case to another Court.

9. I have heard learned counsel for the parties and perused the documents available on record.
10. The power to transfer a criminal case is an extraordinary judicial power intended to ensure the administration of fair and impartial justice. Such power cannot be exercised merely because one of

the parties entertains a subjective apprehension or expresses dissatisfaction with the conduct of the proceedings. It is well settled that transfer of a criminal trial can be directed only where the Court is satisfied that there exists a real, reasonable and bona fide apprehension that justice would not be done or that circumstances exist which are likely to undermine public confidence in the fairness of the trial. Mere conjectures, unfounded allegations or unsubstantiated assertions against the Presiding Officer cannot constitute a valid ground for transfer. Equally settled is the principle that judicial orders passed during the course of trial, if otherwise challengeable in law, cannot by themselves furnish a ground for transfer unless they disclose manifest bias or conduct indicating a predetermined approach.

- 11.** In the present case, the principal foundation of the transfer petition rests upon the allegation that the petitioner has lost faith in the impartiality of the learned trial Court. However, except for the petitioner's own assertions and affidavits of interested persons, no independent or objective material has been placed on record to substantiate the allegation that the learned Presiding Officer has acted with bias or prejudice against the petitioner. The petitioner has not pointed out any judicial order demonstrating that the learned trial Judge has prejudged the issues involved in the trial or has acted in a manner inconsistent with settled principles governing criminal adjudication. The allegations regarding alleged oral observations made by the Court are inherently incapable of

verification and are specifically denied in the comments submitted by the learned Presiding Officer. Pursuant to the order of this Court dated 21.07.2026, comments were called from the learned Presiding Officer. A careful perusal thereof reveals that after presentation of the charge-sheet, copies of all relevant documents, including digital records, were supplied to the petitioner, adequate opportunities were afforded for consideration of the material before framing of charge, and thereafter the trial has proceeded strictly in accordance with law. The comments further disclose that despite repeated requests for adjournments on behalf of the petitioner, sufficient opportunities were granted for cross-examination of prosecution witnesses and whenever cross-examination could not be concluded on a particular date, fresh dates were granted. The comments further indicate that all judicial orders have been passed after hearing both parties and none of those orders has been shown to have been set-aside or even challenged before any superior forum.

- 12.** The comments also disclose that certain prosecution witnesses, who are stated to be poor tribal villagers, approached the Court expressing apprehension that they were being threatened and pressurized to resile from their earlier statements. Consequently, the learned trial Court addressed a communication to the Superintendent of Police for providing protection to such witnesses and also proceeded with the trial expeditiously, particularly keeping in view the allegation that the petitioner had

previously served as a Sub-Divisional Magistrate in the same area where several witnesses reside. Such action, prima facie, appears to have been taken to ensure a fair and uninfluenced trial and cannot by itself be construed as reflecting any bias against the petitioner. The contention of the petitioner that witness protection proceedings or fixation of dates indicate prejudice is equally devoid of merit. The duty of every criminal Court is not merely to safeguard the rights of the accused but also to ensure that prosecution witnesses are able to depose freely and without intimidation. Any judicial measure adopted for securing the presence or protection of witnesses, when supported by circumstances brought before the Court, cannot automatically lead to an inference of partiality. Equally untenable is the petitioner's reliance upon the alleged preliminary inquiry conducted by the Collector. Such administrative inquiry cannot override or substitute the statutory investigation undertaken by the investigating agency under the provisions of the BNSS. The legality or correctness of the investigation, if at all questioned, must be examined in accordance with the statutory remedies available under criminal law and cannot furnish a ground for transfer of the pending trial. Significantly, except for the present petitioner, none of the remaining co-accused persons facing the same trial have expressed any apprehension regarding the impartiality of the learned trial Court. The judicial proceedings reflected from the record also do not indicate that the petitioner

has been denied any reasonable opportunity of defence. Rather, the material placed before this Court demonstrates that adequate opportunities have consistently been afforded to the petitioner to participate in the proceedings, including cross-examination of prosecution witnesses.

13. It is true that in his comments the learned Presiding Officer has stated that he has no objection if this Court, in exercise of its jurisdiction, considers it appropriate to transfer the case. However, such statement cannot by itself become a ground to order transfer. The jurisdiction under Section 447 of the BNSS is required to be exercised upon objective judicial satisfaction regarding the existence of circumstances warranting transfer and not merely because the Presiding Officer has left the matter to the discretion of this Court. Acceptance of such a proposition would enable litigants to obtain transfer merely by making unfounded allegations against Judicial Officers, a course which would seriously erode the independence of the subordinate judiciary and encourage forum shopping. The Supreme Court has repeatedly held that transfer of a criminal case cannot be granted merely because a party entertains an apprehension of bias. The apprehension must be reasonable, bona fide and founded upon tangible circumstances capable of creating a genuine likelihood of failure of justice. Courts have consistently cautioned that allegations against judicial officers must not be lightly accepted, for otherwise the administration of justice would become

vulnerable to attempts by dissatisfied litigants to avoid particular Courts by making reckless allegations.

14. Having considered the pleadings of the parties, the documents placed on record, the comments submitted by the learned Presiding Officer and the legal principles governing exercise of power under Section 447 of the BNSS, this Court is of the considered opinion that the petitioner has failed to establish any compelling, exceptional or extraordinary circumstance warranting transfer of the pending criminal trial. On the contrary, the judicial record and the comments submitted by the Presiding Officer indicate that the proceedings have been conducted in accordance with law and adequate opportunities have been afforded to the defence. The apprehension expressed by the petitioner appears to be subjective in nature and does not satisfy the test of a reasonable apprehension of failure of justice.
15. In view of the above, this Court finds no just or sufficient ground to transfer Special Sessions Trial ST/Atrocities bearing No.13/2026 (State v. Karun Dahariya & Others) pending before the Court of the learned District & Sessions Judge/Special Judge, SC/ST (Prevention of Atrocities) Act, Ramanujganj, District Balrampur-Ramanujganj (C.G.), to any other Court of competent jurisdiction outside District Balrampur-Ramanujganj.
16. Accordingly, the Transfer Petition stands **dismissed**.

17. However, this Court hopes and trusts that the learned trial Court shall proceed with the trial in accordance with law, while maintaining the dignity, decorum and fairness of the judicial proceedings.
18. The Registrar (Judicial) is directed to send a copy of this order to the concerned trial Court for necessary information and compliance forthwith.

Sd/-

(Ramesh Sinha)
Chief Justice

Akhil

Head Note

In the absence of objective material establishing a real and reasonable apprehension of failure of justice, mere subjective apprehension, dissatisfaction with the conduct of the proceedings, or unsubstantiated allegations against the Presiding Officer do not constitute valid grounds for transfer of a criminal trial under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023.