

CRM-M-13841-2026 &

CNR No: PHHC010867412025
2026:PHHC:190021

CRM-M-29836-2025

CNR No: PHHC010424532026
2026:PHHC:190023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13841-2026

SHARAD JOSHI AND OTHERS
V/S
...PETITIONERS

STATE OF PUNJAB AND ANOTHER
...RESPONDENTS

CRM-M-29836-2025

SHARAD JOSHI AND OTHERS
V/S
...PETITIONERS

ARSHIYA JOSHI
...RESPONDENT

1	The date when the judgment was reserved	07.10.2026.
2	The date when the judgment was pronounced	14.10.2026
3	The date when the judgment was uploaded	14.10.2026
4	Whether only the operative part of the judgment is pronounced or whether the full judgment was pronounced	Full
5	The delay, if any, in the pronouncement of full judgment, and reasons therefor	Not applicable

CORAM: HON’BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Prateek Sodhi, Mr. Gagandeep Jammu,
Ms. Yukta Garg and Mr. Prashant Vir Gupta Advocates
for the petitioners. (In both the cases)

Mr. Akshay Kumar, AAG, Punjab.

Mr. Suvir Sidhu & Mr. Mandeep Singla, Advocates
for private respondents. (In both the cases)

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RUPINDERJIT CHAHAL, J.

1. This order shall dispose of CRM-M-13841-2026 and CRM-M-29836-2025 together, as both petitions arise out of the matrimonial dispute between Sharad Joshi-husband (Petitioner No.1 in both petitions) and Arshiya Joshi-wife (Respondent in CRM-M-29836-2025) and raise a common grievance concerning the petitioners' inability to secure effective legal representation at Moga with a prayer to transfer the proceedings out of Moga. For the sake of brevity, the principal facts are noticed from CRM-M-13841-2026, with reference to the connected petition wherever necessary.

2. The petitioners have invoked Section 447 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, BNSS). In CRM-M-13841-2026, transfer is sought of the criminal proceedings bearing registration No.CHI/130/2026, arising out of FIR No.76 dated 15.04.2025, registered under Sections 498-A, 406, 120-B and 323 of the Indian Penal Code at Police Station City Moga, District Moga, to a Court of competent jurisdiction at Dera Bassi. In CRM-M-29836-2025, transfer is sought of the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, the DV Act), bearing filing No.COMA/1786/2025 and registration No.23/2025, instituted on 26.03.2025 at Moga, to a Court of competent jurisdiction at Dera Bassi. The latter proceedings also array Anshu Sharma, the wife of the husband's maternal uncle, as a respondent.

3. The marriage between Sharad Joshi and Arshiya Joshi was solemnized on 08.12.2023 at Moga. There is no child from the wedlock. The

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couple resided at Zirakpur and, according to the petitioners, temporarily stayed at Noida from 31.12.2023 to 29.02.2024 in connection with the husband's educational commitments. Matrimonial discord arose soon thereafter. Sharad Joshi is employed in the Merchant Navy, while Arshiya Joshi is a doctor who has been residing and working in Australia since June 2024. Her mother, Jiwan Asha, is pursuing the proceedings on her behalf as her attorney. Jiwan Asha and her husband are advocates at Moga. Shashi Kant Joshi and Shikha Joshi are the husband's father and mother, respectively.

4. Learned counsel for the petitioners submits that soon after their marriage on 08.12.2023, matrimonial differences arose between the parties and the wife subjected the husband and his family to harassment and, on 23.04.2024, removed jewellery from the joint bank locker after the husband had departed for his sailing duties. The husband thereafter instituted a petition for divorce before the Family Court at Dera Bassi on 16.12.2024. Complaints were also submitted to the police authorities at Shimla and Chandigarh on 18.02.2025 and 15.03.2025, respectively. It is contended that the subsequent FIR and proceedings under the Protection of Women from Domestic Violence Act, 2005 were initiated as a counterblast to the aforesaid proceedings.

5. Learned counsel further submits that the principal ground for seeking transfer is the petitioners' continuing difficulty in securing effective legal representation at Moga. The wife's parents are advocates practising at Moga and the local advocates have been reluctant to accept their brief

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against them. It is also submitted that the husband's maternal uncle faced hostility from certain members of the local Bar when he visited Moga to obtain the relevant records. To demonstrate that the apprehension is founded on specific circumstances, learned counsel points out that the petitioners engaged Mr. Rajesh Gupta, an advocate from Mohali, who arranged for Mr. Baljeet Singh, Advocate at Moga and a former Secretary of the local Bar Association, to appear as co-counsel. However, even the said advocate subsequently expressed reluctance to continue representing them, stating that he had been pressurised by certain local advocates. It is submitted that the difficulty, therefore, persisted despite the petitioners' efforts to arrange representation from outside Moga. To buttress his argument, learned counsel relies upon the order dated 01.05.2025 passed in CRM-M-23443-2025, whereby the Co-ordinate Bench entertained the anticipatory bail of parents of petitioner no.1 without insisting upon their first approaching the Sessions Court, in the circumstances pleaded concerning their liberty and inability to engage local counsel. Reference is also made to the order dated 27.05.2025 passed in CRM-M-29836-2025, whereby notice of motion was issued and the trial Court was directed to adjourn the domestic violence proceedings beyond the date fixed before this Court. It is urged that these orders reflect the petitioners' consistent grievance regarding the obstacles faced by them in pursuing their defence at Moga.

6. Learned Counsel for the petitioner has further relied upon the order dated 08.07.2025 passed in TA-465-2025, whereby the wife's application seeking transfer of the divorce petition from Dera Bassi to Moga

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was dismissed. Learned counsel submits that the Co-ordinate Bench expressly noticed reluctance among members of the local Bar at Moga to accept the husband's brief. Learned counsel further argued that the difficulty in obtaining representation itself provides substantial support for the present prayer and that the petitioners seek an effective opportunity to defend themselves, without requiring a finding of misconduct against any individual advocate.

7. Lastly, learned counsel submits that Arshiya Joshi has been residing and working as a doctor in Australia since June 2024 and is pursuing the proceedings through her mother as attorney. The husband resides at Zirakpur, his parents reside at Shimla, and the divorce petition is pending at Dera Bassi. It is argued that, when these circumstances are considered together with the recurring difficulty in securing representation at Moga, the balance of convenience and the interests of justice favour transfer. Accordingly, a prayer is made for transfer of the criminal proceedings arising out of FIR No.76 dated 15.04.2025, bearing registration No.CHI/130/2026, and the connected domestic violence proceedings bearing registration No.23/2025, to Dera Bassi.

8. Per contra, learned counsel for the private respondents opposes the prayer for transfer and submits that the petitioners have failed to establish any substantial ground warranting exercise of the power under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It is contended that the apprehension of an unfair trial must rest upon specific circumstances and supporting material. Mere assertions of influence,

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dissatisfaction with interlocutory orders or a preference for another place of trial cannot justify transfer as no cogent material has been placed on record demonstrating that the petitioners would be denied a fair opportunity to defend the proceedings at Moga.

9. Learned counsel vehemently disputes the allegation that Jiwan Asha and her husband have exercised influence over the local Bar or the investigating authorities. It is submitted that their status as advocates practising at Moga does not confer any special position or justify an inference that other advocates would refuse to represent the petitioners. Rather, owing to their prolonged ill health, both have remained out of active practice for several years. The allegations concerning hostility from members of the Bar and pressure upon local counsel are denied as unsubstantiated. It is urged that such allegations cannot, without adequate supporting material i.e. any resolution passed by the concerned Bar Association, become the basis for transferring proceedings from the Court otherwise competent to adjudicate them. In answer to the plea concerning non-availability of legal assistance, learned counsel refers to the petitioners' own conduct in pursuing applications before the Courts at Moga. Particular reliance is placed upon the order dated 20.04.2026 passed in CRM/360/2026, annexed as Annexure R-2, whereby the learned Judicial Magistrate First Class, Moga, allowed Sharad Joshi's application for permission to travel abroad in connection with his Merchant Navy assignment, subject to furnishing a bank guarantee/FDR of ₹5 lakh and compliance with the other stipulated conditions. The order records the

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appearance of counsel for the applicant and requires counsel to appear on his behalf during his absence. It is submitted that this subsequent order materially undermines the assertion that the petitioners are unable to secure representation or obtain effective consideration of their applications at Moga.

10. Learned counsel further submits that the earlier orders granting interim protection or entertaining the petitioners' applications cannot be treated as conclusive findings that the private respondents exercised undue influence. Even the order dated 08.07.2025 passed in TA-465-2025 expressly declined to conclude that the wife's parents had exercised influence in the manner alleged. The dismissal of the wife's application to transfer the divorce proceedings to Moga does not, by itself, establish that the criminal proceedings or the application under the Protection of Women from Domestic Violence Act, 2005 must be transferred to Dera Bassi. It is urged that the present prayer must be examined on its own factual foundation, taking account of the subsequent proceedings and the competing interests of all concerned.

11. Learned counsel places particular emphasis upon the medical condition of parents of Arshiya Joshi. Referring to the medical records annexed as Annexures R-3 and R-4, it is submitted that the mother of the wife is undergoing treatment for bilateral breast cancer and suffers from chronic asthma, while her father suffers from a serious cardiac ailment and has been medically advised to avoid travel. Transfer to Dera Bassi, approximately 186–200 kilometres from Moga, would impose substantial

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physical and financial hardship upon them. It is argued that these circumstances require consideration when weighing convenience and that the petitioners' preference for Dera Bassi cannot override the difficulties faced by the complainant's side. It is further submitted that the witnesses and the investigation connected with FIR No.76 are centred at Moga. There are 21 witnesses in the criminal case and 13 witnesses in the domestic violence proceedings. According to learned counsel, requiring witnesses, including police officials and other witnesses connected with the proceedings, to travel to Dera Bassi would entail additional expense, affect their availability and risk further delay. The balance of convenience must therefore be assessed with reference to the complainant, the prosecution and the witnesses, as well as the petitioners. Mere pendency of the husband's divorce petition at Dera Bassi does not establish that Dera Bassi is the appropriate place of trial for every proceeding arising from the matrimonial dispute.

12. Lastly, learned counsel submits that the substantive proceedings have already been held up by interim orders and that allowing the present prayer would occasion further delay and disruption. He submits that the allegations of influence and denial of legal representation are insufficient to outweigh the medical hardship of the private respondents, the inconvenience to the witnesses and the need for expeditious adjudication of the cases at Moga. Accordingly, he prays for dismissal of the transfer petitions with costs. In the alternative, learned counsel for the private respondents submits that, should this Court be inclined to transfer the cases outside District Moga, the same may be transferred to a Court of competent jurisdiction at

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Jagraon, which is at a distance of approximately 30-40 kilometres from Moga, so as to minimise the hardship to the private respondents and the inconvenience to the witnesses.

13. Having heard learned counsel for the parties and considered the material placed on record, this Court is of the view that the question of transfer must be determined by balancing the petitioners' entitlement to effective legal assistance against the medical hardship and inconvenience likely to be occasioned to the parents of the respondent-wife and the witnesses. The object is to secure fair adjudication while avoiding an unnecessary burden upon either side.

14. The power of transfer under Section 447 BNSS is to be exercised upon a substantial foundation and not merely on the basis of a party's preference or an unsubstantiated apprehension. In *Maneka Sanjay Gandhi and another v. Rani Jethmalani, (1979) 4 SCC 167*, the Hon'ble Supreme Court emphasized that assurance of a fair trial is central to the administration of justice and that ordinary inconvenience or hypersensitivity is insufficient to warrant transfer. The principles stated in *Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158*, further require fairness to the accused, the victim and society alike. Accordingly, the convenience and ability to participate of all concerned must inform the exercise of discretion.

15. The fact that Jiwan Asha and her husband are advocates at Moga does not, by itself, justify transfer or establish that they have exercised undue influence over the local Bar or the investigating agency. Their

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submission that they have remained out of active practice owing to prolonged ill health also deserves consideration. Significantly, while dismissing TA-465-2025 on 08.07.2025, the Co-ordinate Bench expressly declined to conclude that influence had been exercised in the manner alleged. Nevertheless, it noticed reluctance among members of the local Bar at Moga to accept the husband's brief. That distinction must be maintained. No finding of misconduct against the private respondents or the members of the local Bar is necessary for considering whether the circumstances warrant a change of place of trial in the interests of justice.

16. The order dated 20.04.2026 passed in CRM/360/2026, relied upon by the private respondents, shows that the husband's application for permission to travel abroad was considered and allowed at Moga. However, the said application was argued by Mr. Rajesh Gupta, co-counsel engaged from Mohali. His appearance, therefore, does not establish that the petitioners were able to secure continued representation from the local Bar at Moga. Rather, it is consistent with their submission that they had to arrange legal assistance from outside the district. Although the favourable consideration of the application affords no basis to doubt the impartiality of the Court at Moga, it does not resolve the distinct grievance concerning the availability of effective legal representation throughout the substantive proceedings. The earlier judicial observations, read with the specific averment regarding the subsequent reluctance of the locally engaged co-counsel, furnish sufficient grounds to address that continuing difficulty by a

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change of place of trial, without recording any finding of undue influence or misconduct against the private respondents or members of the local Bar.

17. The convenience of the private respondents and the witnesses also requires consideration. The learned counsel for private respondents have referred to the medical records at Annexures R-3 and R-4 in support of their objection to transfer of the proceedings to Dera Bassi. These circumstances, together with the fact that Jiwan Asha is pursuing the proceedings as her daughter's attorney and that witnesses connected with both proceedings are at Moga, bear upon the choice of the transferee Court. The wife's residence and employment in Australia do not diminish the relevance of these considerations.

18. The pendency of the divorce petition at Dera Bassi does not require every proceeding arising from the matrimonial dispute to be transferred to that place. The petitioners' entitlement is to a fair opportunity to defend the proceedings; it does not confer an absolute right to select the transferee Court.

19. Having regard to the competing circumstances, transfer to a Court of competent jurisdiction at Jagraon, District Ludhiana, would appropriately balance the interests of both sides. Jagraon is situated at a distance of approximately 30-40 kilometers from District Moga and is substantially nearer to Moga than Dera Bassi. Transfer to Jagraon would thus address the petitioners' difficulty in securing local legal representation while keeping the additional travel and inconvenience to the private respondents and the witnesses within reasonable bounds.

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20. Both proceedings arise from the same matrimonial dispute and involve substantially overlapping parties and allegations. The reasons warranting a change of place of trial apply to both matters. In these circumstances, transfer to Jagraon is expedient for the ends of justice.

21. Consequently, both petitions are allowed to the extent that the proceedings shall be transferred to a Court or Courts of competent jurisdiction at Jagraon, District Ludhiana, instead of Dera Bassi, in the following terms:

(i) The criminal proceedings arising out of FIR No.76 dated 15.04.2025, registered under Sections 498-A, 406, 120-B and 323 IPC at Police Station City Moga, District Moga, bearing registration No.CHI/130/2026, shall stand transferred from the Court presently seized of the matter at Moga to a Court of competent jurisdiction at Jagraon, District Ludhiana.

(ii) The proceedings under Section 12 of the DV Act, bearing filing No.COMA/1786/2025 and registration No.23/2025, titled Arshiya Joshi v. Sharad Joshi and others, shall likewise stand transferred from the Court presently seized of the matter at Moga to a Court of competent jurisdiction at Jagraon, District Ludhiana.

(iii) The learned District and Sessions Judge, Moga, shall arrange transmission of the complete records of both matters to the learned District and Sessions Judge, Ludhiana, who shall assign them to the competent Court or Courts at Jagraon. Any record required to

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accompany the challan in terms of the order dated 26.02.2026 concerning complaint No.COMI/5/2026 shall be dealt with in accordance with law. No direction for a joint trial of the criminal case and the DV Act proceedings is being issued.

(iv) Upon assignment, the transferee Courts shall fix the dates of appearance and ensure that the same are communicated to the parties through their counsel. Having regard to the medical circumstances relied upon by the complainant's side, applications for exemption from personal appearance or participation through video conferencing shall be considered sympathetically, in accordance with law, while ensuring a fair opportunity to all parties. Personal attendance shall not be insisted upon as a matter of routine where representation through counsel is legally permissible and physical presence is unnecessary for the particular stage of the proceedings.

(v) The transferee Courts shall proceed from the stage already reached and make earnest endeavour to conclude the proceedings expeditiously, without unnecessary adjournments. Existing bail orders and conditions shall continue to operate according to their terms. The transfer shall not disturb orders already passed on substantive or interlocutory applications merely by reason of the change of place of trial.

22. Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the allegations in the FIR, the

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complaint or the application under the DV Act. All questions concerning jurisdiction, maintainability, liability and entitlement to relief shall be adjudicated independently by the competent Courts, uninfluenced by the observations made for deciding these transfer petitions.

23. A copy of this order be placed on the file of the connected case. Pending applications, if any, stand disposed of. There shall be no order as to costs.

(RUPINDERJIT CHAHAL)
JUDGE

14.10.2026
Mohan...

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes