

MHAH030054762018



R.C.C. NO.586/2018

**The State of Maharashtra
Vs.
Sachin Paraji Diwate**

ORDER BELOW EXH.16

The accused No. 1 has moved present application to separate him trial from the accused No.2.

2. It is the contention of the accused No.1 that since 2018 time to time warrant has been issued against the accused No.2 but the police failed to secure his presence. However, he is regularly present before the Court. Due to non appearance of accused No. 2, he has to appear before the Court by taking leave and matter could not be proceed further. Hence, prayed to separate the matter from accused No.2.

3. The learned APP. opposed the application on the ground that as per her application Exh. 15 N.B.W. was issued against the accused No.2. but it could not be served. She further requested to re-issue N.B.W. against the accused No.2.

4. The Learned Counsel for the accused and Ld. APP argued as per their contention in the application and in reply.

5. On perused of record it appears that the case has been filed in the year 2018 and the accused No.2 did not appear before the Court till date. He is resident of Dehu Road, but the report shows that the warrant were received later on to the police station therefore, it could not be served. The matter is pending since 2018 and accused No. 1 is regularly appearing before the Court. Considering, the record absence of accused No.2 it seems that there is no possibility of accused No.2 to appear before the Court in near future. In spite of nonailable warrant issued against him, the police could not secure his presence. In such circumstances, no purpose will suffice by prolonging the matter only awaiting for accused No. 2. So far as the securing the presence of accused is concerned, non-ailable warrant can be issued against him. Therefore, I am of the considered view that it will be justified to separate the trial of the accused Nos. 1 from the accused No. 2. Hence, I pass the following order-

ORDER

- I. The application is allowed.
- II. Matter is separated for accused No. 1
- III. Re-issue fresh nonailable warrant against accused No.2

Ahmednagar
Date : 17.03.2026

(L. S. Padhen)
Chief Judicial Magistrate,
Ahmednagar.