

Order below Exh.61 In RCC No.301 of 2025

(Passed on this 08th day of July, 2026)

State.Vrs. Dilip & Ors.

CNR NO. MHLA060026512025

This is an application filed by accused number 2 requesting the Court to stop the trial in respect of him till the appropriate orders are passed in respect of the trial of absconding accused.

02. Perused the application and say of Ld. APP. Perused the record.

03. It is averred by accused number 2 that there are in all 8 accused in the present case. It has been alleged that all the accused have committed the offence with common intention and it is in respect of the same transaction. The evidence against all the accused is interlinked. The trial is commenced against the three accused only. The trial of absconded accused has not been separated. If the absconding accused appear in future, there are chances of passing conflicting findings by the Court. Hence, it is proper to pass orders in respect of the absconding accused and then proceed for trial of all the accused including the absconding accused.

04. Ld. APP contested the application on the ground that the apprehension of recording conflicting findings is without any basis. Merely because some accused are absconding, it is not proper to postpone the trial against the accused who are present before the court for indefinite period. The remaining accused are absconding and the legal procedure against them is initiated. Each case

proceeds and the findings are recorded on the basis of documentary evidence led before the court. Therefore the application is groundless and there is no reason to stay hearing of the present accused for indefinite period.

05. Perused written argument submitted on behalf of accused number 2 at exhibit 63. Heard oral argument of Ld.APP.

06. It is argued on behalf of accused number 2 that the names of absconding accused are mentioned in the chargesheet, those are revealed in FIR and investigation. Therefore, the chargesheet is against all the accused. Admittedly, the final chargesheet has not been submitted in respect of the absconding accused but the role of those accused has not been yet adjudicated. Therefore, there are all chances of recording conflicting findings if the trial is proceeds without splitting up the trial of the absconding accused. It is not just and proper to proceed against the absconding accused without issuing proclamation and without following the provisions of sections 81, 82, 83 of the code of criminal procedure. If the proclamation is not issued, the evidence in respect of the absconding accused under Section 299 of the Code of Criminal Procedure cannot be recorded. Hence, requested to allow the application.

07. It is argued on behalf of the ld. APP that the chargesheet is not against the absconding accused. There is no need to separate their trial from the trial of the accused who have appeared before the Court. Hence, requested to reject the application.

08. On perusal of the chargesheet it is clear that the chargesheet is against accused number 1 to 8. Therefore, it is

desirable to issue proclamation against the absconding before proceeding with recording of evidence of the prosecution witnesses. If the proclamation is issued against the absconding accused the evidence in respect of the present accused will be recorded as per Section 242 of the Code of Criminal Procedure and the evidence in respect of the absconding accused will be recorded under Section 299 of the Code of Criminal Procedure. If the trial is proceeded against the present accused only, it may lead to irregular procedure. Hence, the application deserves to be allowed. Hence, I pass the following order;

ORDER

1. The application is allowed.
2. Appropriate orders are passed below Exh.1 in respect of the absconding accused.

Place: Ahmedpur.

Date:- 08.07.2026.

(Swanandi D. Wadgaonkar)

J.M.F.C. (Court No.01), Ahmedpur.