

ORDER BELOW EXH. NO. 43 IN CRI. M.A.NO.209/2025

**Santosh Traders Taradgaon Through Santosh Sadashiv Gaikwad
V/s.
Chatrapati Agro Tech Pvt Ltd. Through Santosh Vitthal Bathe & Ors.**

This is an application filed by applicant for issuance N.B.W. order against non-applicants/accused no.1 and 2. According to applicant the order of N.B.W. was previously stayed by Hon'ble Appellate Court. However, Hon'ble Appellate Court has vacated the stay to the execution of N.B.W. For the execution of previous order of this Court the execution of N.B.W. is necessary. Hence, he prayed to issue N.B.W. against the accused/ non-applicant.

2. The accused is absent today. His advocate has filed say on the backside of the application. According to him, on 29.06.2026 the Hon'ble Appellate Court had instructed to the advocate of complainant/applicant not to press for N.B.W., as appeal is to be heard on 20.07.2026. Therefore, present application is liable to be rejected. Hence, he prayed to reject the application.

3. Perused application and say. Heard Ld. Advocate of applicant and non-applicants. The applicant has filed present execution proceeding for execution of sentence which is passed in S.C.C.No.945/2020 against non-applicants. In that judgment both accused/non-applicants were convicted by this Court for an offence punishable u/s 138 of N. I. Act and sentenced to them to suffer simple imprisonment of 1 year and to pay fine of Rs.85,00,000/-. The accused also sentenced to suffer 1 month simple imprisonment in default of payment of fine.

4. It is admitted position that, accused have preferred an appeal before Hon'ble Additional Sessions Judge, Phaltan against order and judgment of S.C.C.No.945/2020. The Hon'ble Additional Sessions Court, Phaltan on 11.06.2025 suspended the execution of judgment and sentence of S.C.C.No. 945/2020 on the condition that, both accused jointly or severally to deposit Rs.17,16,000/- in the Court within the period of 1 month. The period for depositing the amount was ended on 11.07.2025. However, accused did not deposited the fine amount in the Hon'ble Additional Sessions Court, Phaltan. It is also admitted position that, till date accused could not comply the order dated 11.06.2025 of Hon'ble Additional Sessions Court, Phaltan. Therefore, the judgment and sentence passed in S.C.C.No.945/2020 is could not be taken as suspended by Hon'ble Additional Sessions Court, Phaltan and it remained in force.

5. Accordingly, the applicant has filed an application Exh. 5 for execution of sentence of imprisonment against non-applicants. In order to execute the sentence against non-applicants the conviction warrant need to be issued. For that purpose this Court issued N.B.W. as per Section 418 (2) of Cr.P.C. against non-applicants. The non-applicants by filing application vide Exh.48 and 54 before Hon'ble Appellate Court obtained stay of N.B.W. order of this Court. Therefore, the N.B.W. order passed dated 16.06.2026 was recalled by this Court. However, thereafter the Hon'ble Appellate Court pleased to vacate the stay order. The letter of Hon'ble Appellate Court of vacating the stay order of N.B.W. is filed on record. Therefore, at present there is no stay to the present proceeding and order of N.B.W. passed by this Court vide order below Exh.5 and

thereafter.

6. Till date accused could not appeared before the Court for undergoing the sentence which is passed in S.C.C.No. 945/2020. Therefore, in order to execute the sentence of the judgment of S.C.C.No. 945/2020 N.B.W. need to be re-issued against the accused/non-applicants. The objection taken by non-applicants are not relevant. Because, there is no any written directions of Hon'ble Appellate Court to this Court for not executing the sentence passed in S.C.C.No.945/2020. Hence, I come to conclusion that, the application need to be allowed and N.B.W. need to be re-issued. Hence, the following order.

ORDER

Re-issue N.B.W. against the both non-applicants/accused.

Phaltan.
Date-06.07.2026

(A.S.Satote)
Judicial Magistrate First Class, Phaltan.