

Order Below Exh.08

Present application is filed on behalf of accused No.2 & 3 Santosh Ratiram Varma and Bhima Ishwardayal Borkar for split of the trial from accused No. 1.

2. It is mentioned in the application that accused No.1 Sachin Sahu left his house since last 3 to 4 years. He is absconded. The applicants are present and ready to proceed with the case. Despite several efforts and issuance of non-bailable warrant, accused No.1 did not find on his given address. Police have failed their report and submitted that the accused No.1 not found in the given address. The NBW issued against the accused. However, he did not find. Lastly, the proclamation u/s 82 of Cr.P.C. was also published. However, accused No.1 failed to appear. Considering the fact of the case and consistent absence of accused No.1, there is no immediate prospect to bring accused No.1 before the Court. Due to the absence of accused No.1, the case is seen to be pending unnecessarily. The applicant/accused No.2 and 3 are suffering unnecessarily. Therefore, the case needs to be separated from accused No.1.

3. Learned APP filed her say on reverse side of the application and she opposed the application stating therein that accused No.1 deliberately avoiding his presence and prayed to issue proclamation u/s. 82 of Cr.P.C. against accused. Record shows that proclamation is already issued against the accused. However, he did not come in the Court. It is sufficient to consider that the presence of accused is not possible for the prosecution. The offence alleged against the accused is punishable under section 379 r/w 34 of IPC.

Record shows the accused No.1 remained absent since long. Despite issuance of NBW and proclamation. The personal attendance accused No.1 did not secure by the prosecution. Without his presence final decision of the case can not be passed. If the attendance of accused No.1 is not possible then, it would not be just and proper to await for his attendance. Hence, I am in view that it is a fit case to separate the trial from accused No.1 and case is necessary split off and tried separately. Thus, I pass the following order.

ORDER

1. Application is hereby allowed.
2. The case be separated from accused No.1.
3. Case be proceeded further against accused No.2 and 3 and keep pending against accused No.1.

Seloo

Dt. 06.02.2025

(S. W. Shegokar)

Judicial Magistrate First Class,
(Court No.2), Seloo.