

**IN THE COURT OF SESSIONS JUDGE, PATNA**  
**Criminal Revision No. 168 of 2025**

**Jaiprakash Kumar, S/o Nageshwar Prasad**  
**R/o:-Village- Anjani, P.O.- Bara, P.S.- Jehanabad,**  
**District- Jehanabad.**

..... Petitioner

Versus

**The State of Bihar**

..... Opposite Party

**Counsel for the Petitioner** :- **Sri Nand Kumar Sagar, Advocate**

**Counsel for the State** :- **Sri Rajesh Kumar, P.P.**

**ORDER**

**07.04.2026**

1. The instant criminal revision application has been preferred on behalf of the petitioner, **Jaiprakash Kumar**, an accused in GR No. 4992/2014 arising out of Hawaii Adda P.S. Case No.162/2014, challenging the order dated 05.12.2025 passed by ACJM-II, Patna, whereby the learned Court has declared the revisionist-accused as **absconder** and **issued permanent warrant** against him and ordered to deposit the record in the Record Room.
2. The arguments advanced by the learned counsel for the petitioner and the learned Public Prosecutor for the State have been duly considered. The documents appended to this application, together with the trial court record, have been perused.

**CONTENTIONS OF THE PETITIONER**

3. The learned counsel for the petitioner has submitted that the impugned order is vitiated by both factual and legal infirmities, having been passed without proper adherence to statutory procedures and without due application of judicial mind.
4. The trial court initiated proceedings under Sections 82 and 83 Cr.P.C. without ensuring valid service of summons and proper execution ofailable and non-ailable warrants of arrest.
5. The petitioner was unaware of any summons or process issued by the court and expresses his willingness to appear before the trial court within fifteen days.

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6. The issuance of warrants and initiation of proceedings under Sections 82 and 83 Cr.P.C. are legally untenable in the absence of a report demonstrating deliberate evasion of court appearance.

**CONTENTIONS OF THE STATE**

7. The learned counsel for the State acknowledges that trial court initiated proceedings under Sections 82 and 83 Cr.P.C. without ensuring proper service of summons and execution of arrest warrants.
8. There exists a prevailing tendency among accused persons to delay trials by evading service of process, notwithstanding their awareness of pending criminal proceedings.
9. The petitioner's failure to appear necessitated the court's recourse to coercive measures as a last resort. The petitioner may be directed to appear before the trial court within a stipulated time frame.

**FACTUAL MATRIX**

10. Upon careful examination of the trial court record, it is evident that the trial court took cognizance of the matter and issued summons to the petitioner for his appearance in connection with offences under Section 447, 323, 504 read with section 34 of Indian Penal Code. Due to non-service of summons, the court issued aailable warrant of arrest. Subsequently, a non-ailable warrant was issued. The trial court thereafter initiated proceedings under Sections 82 and 83 Cr.P.C. against the petitioner.

**LEGAL INFIRMITIES IN THE IMPUGNED ORDER**

11. Upon scrutiny of the trial court records, it is apparent that the proceedings initiated under Section 83 Cr.P.C. for the attachment of the petitioner's property were not supported by an affidavit. The Hon'ble Patna High Court, in ***Krishna Murari Yadav v. The State of Bihar and Others***, 2005(3) PLJR 746, has clearly propounded that applications under Sections 73, 82, and 83 Cr.P.C., if not accompanied by an affidavit, are legally unsustainable. Consequently, the order passed under Section 83 Cr.P.C. for the attachment of the petitioner's property stands vitiated on this ground alone.
12. Furthermore, Rule 109(B) of the Bihar Police Manual mandates that any

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application under Section 83 Cr.P.C. must be accompanied by a specific and detailed list of properties proposed for attachment. In the present case, this procedural requirement has been wholly neglected, as the proceedings initiated under Section 83 Cr.P.C. contain no such list of properties. This omission constitutes a serious procedural defect that renders the entire order legally unsound and susceptible to judicial intervention. The impugned order dated 05.12.2025, being devoid of the requisite procedural compliance, is declared invalid and liable to be set aside.

**CONCLUSION**

13. Upon the foregoing analysis and in light of the established legal principles, this Court finds that the impugned order dated 05.12.2025 is afflicted with grave legal infirmities and lacks essential procedural safeguards. Accordingly, this criminal revision application is **allowed**. The impugned order dated 05.12.2025 passed by the learned J.M., 1st Class, Patna, initiating proceedings under Section 83 Cr.P.C. for the attachment of the petitioner's property, is **hereby set aside**.
14. The petitioner is directed to appear before the learned trial court within fifteen (15) days from the date of receipt of a copy of this order by the trial court. Upon such appearance, it shall be deemed that the petitioner has responded to the process and summons issued by the trial court, and the trial court shall proceed with the matter in accordance with law, without further resort to coercive measures under Sections 82 and 83 Cr.P.C.

**(Dictated)**

Sd/-

**(Rupesh Deo)**

**Sessions Judge, Patna**

<b>Date of Judgment/Order</b>	<b>07.04.2026</b>
<b>Date of Reserving Judgment/Order</b>	<b>26.03.2026</b>
<b>Uploading Date</b>	<b>07.04.2026</b>
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