

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.239 of 2026

Kuleshwar Yadav @ Kuleshar Yadav aged about 47 yrs. son of
Mohan Yadav, resident of Village- Mahungain, P.O. & P.S.-
Pratappur, District- Chatra.

... Petitioner

Versus

The State of Jharkhand ... Opposite Party

For the Petitioner : Mr. Rajiv N. Prasad, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl.P.P.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash the order dated 07.01.2023 passed in connection with Pratappur P.S. Case No. 75 of 2012 corresponding to G.R. Case No. 1008 of 2023 passed by the learned Sub-Divisional Judicial Magistrate, Chatra whereby and where under the learned Sub-Divisional Judicial Magistrate, Chatra has issued the proclamation under Section 82 of the Code of Criminal Procedure *inter alia* against the petitioner.

3. Learned counsel for the petitioner submits that the learned Sub-Divisional Judicial Magistrate, Chatra has neither recorded its satisfaction that the petitioner is absconding or concealing himself to evade his arrest nor fixed any time or place for appearance of the petitioner who is the accused person of the case and the proclamation

under Section 82 of the Code of Criminal Procedure *inter alia* against the petitioner. It is next submitted that therefore, the impugned order dated 07.01.2023 passed in connection with Pratappur P.S. Case No. 75 of 2012 corresponding to G.R. Case No. 1008 of 2023 passed by the learned Sub-Divisional Judicial Magistrate, Chatra, is not in accordance with law. Hence, it is submitted that the prayer as prayed for in this Criminal Miscellaneous Petition be allowed.

4. Learned Spl.P.P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner made in this Criminal Miscellaneous Petition and submits the very fact that the learned Sub-Divisional Judicial Magistrate, Chatra has issued the proclamation under Section 82 of the Code of Criminal Procedure which goes to show that there were sufficient materials available in the record for the learned Sub-Divisional Judicial Magistrate, Chatra to be satisfied for issuance of the said proclamation. Hence, it is submitted that this Criminal Miscellaneous Petition, being without any merit, be dismissed.

5. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that by now it is a settled principle of law that the court which issues the proclamation under Section 82 of the Code of Criminal Procedure, must record its satisfaction that the accused in respect of whom the proclamation under Section 82 of the Code of Criminal Procedure is made, is absconding or concealing himself to evade his arrest and in case, the court decides to issue the

proclamation under Section 82 of the Code of Criminal Procedure, it must specifically mention the time and place for appearance of the accused person of the case in respect of whom the proclamation under Section 82 of the Code of Criminal Procedure is issued, in the order itself by which the said proclamation is issued.

6. As already indicated above since the learned Sub-Divisional Judicial Magistrate, Chatra has neither recorded its satisfaction that the petitioner is absconding or concealing himself to evade his arrest nor fixed any time or place for appearance of the petitioner who is the accused person of the case, hence, this Court has no hesitation in holding that the learned Sub-Divisional Judicial Magistrate, Chatra has committed illegality by issuing the said proclamation under Section 82 of the Code of Criminal Procedure without complying with the mandatory requirements of law. Hence, the same is not sustainable in law and the continuation of the same will amount to abuse of process of law. Therefore, this is a fit case where the order dated 07.01.2023 passed in connection with Pratappur P.S. Case No. 75 of 2012 corresponding to G.R. Case No. 1008 of 2023 passed by the learned Sub-Divisional Judicial Magistrate, Chatra, be quashed and set aside *qua* the petitioner only.

7. Accordingly, the order dated 07.01.2023 passed in connection with Pratappur P.S. Case No. 75 of 2012 corresponding to G.R. Case No. 1008 of 2023 passed by the learned Sub-Divisional Judicial Magistrate, Chatra, is quashed and set aside *qua* the petitioner only.

8. The learned Sub-Divisional Judicial Magistrate, Chatra may pass a fresh order in accordance with law.

9. In the result, this Criminal Miscellaneous Petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 09th of February, 2026
AFR/ Saroj

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