

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1236 of 2026

Pradip Rohidas @ Pradip Ruidas, aged about 31 years, S/o Shyam
Sunder Rohidas @ Shyam Sunder Ruidas, R/o Soulouk, P.O. and
P.S. -Pursurah, District -Hoogly, West Bengal -712410.

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Petitioner

Versus

The State of Jharkhand

....

Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

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For the Petitioner

: Mr. Soumitra Baroi, Advocate

For the State

: Mr. Abhay Kr. Tiwari, Addl. P.P.

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By the Court:-

1. Heard the parties.
2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the entire criminal proceedings as well as the orders dated 12.10.2023 and 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in Tundi P.S. Case No.65 of 2023 registered for the offence punishable under Section 420, 467, 468, 471 and 120 B of the Indian Penal Code pending in the court of learned Judicial Magistrate-1st Class, Dhanbad.
3. At the outset, learned counsel for the petitioner submits that the petitioner does not press this Cr.M.P. so far as it relates the prayer to quash the entire criminal proceedings and confines his prayer

to quash the orders dated 12.10.2023 and 10.02.2025 passed in the said case whereby and where under, respectively, the non-bailable warrant of arrest and process under Section 82 of Cr.P.C. has been issued against the petitioner.

4. Accordingly, the prayer to quash and set aside the entire criminal proceedings in connection with Tundi P.S. Case No.65 of 2023 stands rejected as not pressed.
5. The brief fact of the case is that on 12.10.2023, a prayer was made by the Investigating Officer of the case for issuance of non-bailable warrant of arrest *inter alia* against the petitioner. The learned Judicial Magistrate-1st Class, Dhanbad without recording its satisfaction as to whether the petitioner is absconding or concealing himself to evade his arrest, has ordered for issuance of non-bailable warrant of arrest and vide order dated 10.02.2025, without fixing any time and place for appearance of the petitioner, has ordered for issuance of the proclamation under Section 82 of the Cr.P.C.
6. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of **Inder Mohan Goswami & Another vs. State of Uttaranchal & Others** reported in (2007) 12 SCC 1 and submits that therein the Hon'ble Supreme Court of India has expressed the word of caution while exercising the power to issue non-bailable warrant of arrest. It is next submitted by the learned counsel for the petitioner that the learned Judicial Magistrate-1st Class, Dhanbad has committed a

grave illegality by directing issuance non-bailable warrant of arrest *inter alia* against the petitioner, without recording any satisfaction that the petitioner is evading his arrest. It is further submitted that similarly the learned Judicial Magistrate-1st Class, Dhanbad has also committed a grave error by issuing the proclamation without fixing any time and place for appearance of the petitioner. Hence, it is submitted that the orders dated 12.10.2023 and 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in Tundi P.S. Case No.65 of 2023 which is now pending in the court of learned Judicial Magistrate-1st Class, Dhanbad; being not in accordance with law, be quashed and set aside.

7. Learned Addl. P.P. appearing for the State vehemently opposes the prayer for quashing the orders dated 12.10.2023 and 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in Tundi P.S. Case No.65 of 2023 which is now pending in the court of learned Judicial Magistrate-1st Class, Dhanbad and submits that the very fact that the learned Judicial Magistrate-1st Class, Dhanbad has passed orders for issuance of non-bailable warrant of arrest and the proclamation under Section 82 of Cr.P.C. itself shows that there were ample materials available in the record for the learned Judicial Magistrate-1st Class, Dhanbad to be satisfied that there is justification for issuance of such non-bailable warrant of arrest and the proclamation. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

8. 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 Section 73 of the Code of Criminal Procedure empowers the Chief Judicial Magistrate or a Judicial Magistrate of First Class to direct a warrant of arrest to any person within his local jurisdiction for arrest, but unless such person is escaped convict or proclaimed offender; the condition precedent for exercise of the power by the Magistrate concerned to direct a warrant of arrest is that, the accused person concern must be accused of committing a non-bailable offence and evading his arrest.
9. Now, coming to the facts of the case, the undisputed fact remains that the petitioner is accused of committing non-bailable offences but there is absolutely no material in the record to suggest that the petitioner was evading his arrest and as without recording any satisfaction that the petitioner is evading his arrest, since the Judicial Magistrate-1st Class, Dhanbad has issued the non-bailable warrant of arrest, hence, this Court is of the considered view that the order dated 12.10.2023 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Tundi P.S. Case No.65 of 2023 is not sustainable in law.
10. Accordingly, the order dated 12.10.2023 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Tundi P.S. Case No.65 of 2023, is quashed and set aside *qua* the petitioner only.

11. So far as the order dated 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Tundi P.S. Case No.65 of 2023 is concerned, 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 Cr.P.C. besides recording its satisfaction that the accused in respect of whom the proclamation under Section 82 of Cr.P.C. is made, is absconding or concealing himself to evade his arrest, must also mention the time and place for appearance of the accused person in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued.
12. Now, coming to the facts of the case, as already indicated above since the learned Judicial Magistrate-1st Class, Dhanbad has ordered for issuance of proclamation under Section 82 of Cr.P.C. without fixing any time and place for appearance of the petitioner. Hence, the order dated 10.02.2025 be quashed and set aside.
13. Accordingly, the order dated 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Tundi P.S. Case No.65 of 2023, is not sustainable in law and is liable to be quashed and set aside.
14. Accordingly, the order dated 10.02.2025 passed by the learned Judicial Magistrate-1st Class, Dhanbad in connection with Tundi P.S. Case No.65 of 2023, is quashed and set aside *qua* the petitioner only.

15. The learned Judicial Magistrate-1st Class, Dhanbad may pass fresh order in accordance with law.
16. In the result, this Cr.M.P. stands allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 30th April, 2026
AFR/Sonu/-

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