

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1119 of 2026

Akbar Mahfouz Alam, aged about 46 years, s/o late Kudral Miyan, r/o
Sahdewa, P.O.-Pandepura, P.S.-Patan, Dist.-Palamau (Jharkhand)
.... Petitioner

Versus

The State of Jharkhand
.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY
.....

For the Petitioners	: Mr. Faruque Ansari, Advocate
For the State	: Mrs. Vandana Bharti, Addl. P.P.
	

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 Bhartiya Nagarik Suraksha Sanhita, 2023 with twin prayers i.e. to quash the order dated 03.10.2023 by which the proclamation under Section 82 Cr.P.C. has been issued and the order dated 06.03.2024 by which the attachment order of the property of the petitioner was issued in connection with Patan P.S. Case No. 114 of 2022, corresponding to POCSO Case No. 8A of 2023 passed by the learned Special Judge, POCSO Act, Palamau at Daltonganj.
3. At the outset, it is submitted by the learned counsel for the petitioner that since no property has been attached as yet in terms of

the order dated 06.03.2024, the petitioner does not press the prayer to quash the said order dated 06.03.2024.

4. Accordingly, the prayer to quash the said order dated 06.03.2024 passed by the learned Special Judge, POCSO Act, Palamau at Daltonganj in connection with Patan P.S. Case No. 114 of 2022, corresponding to POCSO Case No. 8A of 2023 is rejected as not pressed.
5. So far as the order dated 03.10.2023 passed in the said case is concerned, it is submitted by the learned counsel for the petitioner that proclamation under Section 82 of Cr.P.C. has been issued without following the due process of law and without recording the satisfaction that the petitioner is absconding or concealing himself to evade his arrest which is a *sine qua non* for issuing proclamation under Section 82 of Cr.P.C. that too without fixing any time or place for the appearance of the petitioner. Hence, it is submitted that order dated 03.10.2023 passed by the learned Special Judge, POCSO Act, Palamau at Daltonganj in connection with Patan P.S. Case No. 114 of 2022, corresponding to POCSO Case No. 8A of 2023 be quashed and set aside.
6. Learned Additional Public Prosecutor on the other hand opposes the prayer as made by the petitioner in this criminal miscellaneous petition and submits that the very fact that the learned Special Judge, POCSO Act, Palamau at Daltonganj has issued the proclamation under Section 82 of Cr.P.C. itself shows that there were materials available in the record for the learned Special Judge, POCSO Act, Palamau at Daltonganj to be satisfied that there is justification for issuance of such proclamation. Hence, it is submitted that this

criminal miscellaneous petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials 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 Cr.P.C. must record 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 and in case the court decides to issue proclamation under Section 82 of Cr.P.C., it must mention the time and place for appearance of the petitioner in the order itself by which the proclamation under Section 82 of Cr.P.C. is issued. As already indicated above since the learned Special Judge, POCSO Act, Palamau at Daltonganj 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 this case, this Court has no hesitation in holding that the learned Special Judge, POCSO Act, Palamau at Daltonganj has committed illegality by issuing the said proclamation under Section 82 of Cr.P.C. 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 and this is a fit case where the order dated 03.10.2023 passed by the learned Special Judge, POCSO Act, Palamau at Daltonganj in connection with Patan P.S. Case No. 114 of 2022, corresponding to POCSO Case No. 8A of 2023 be quashed and set aside *qua* the petitioner.

8. Accordingly, the order dated 03.10.2023 passed by the learned Special Judge, POCSO Act, Palamau at Daltonganj in connection with Patan P.S. Case No. 114 of 2022, corresponding to POCSO Case No. 8A of 2023, is quashed and set aside *qua* the petitioner.
9. The learned Special Judge, POCSO Act, Palamau at Daltonganj may pass a fresh order in accordance with law.
10. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 27th April, 2026
AFR/Gunjan/-

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