

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.1354 of 2026**

Raj Kumar Gupta, aged about 30 years Son of – Ashok Kumar Gupta
Resident of Village – Dole, P.O. and P.S. – Chinia, District- Garhwa

... Petitioner

Versus

The State of Jharkhand

...

Opposite Party

For the Petitioner : Mr. Abhay Kr. Chaturvedy, Advocate
For the State : Mr. V. S. Sahay, Addl.P.P.

PRESENT

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 Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the order dated 08.04.2026 passed by the learned Special Judge, POCSO, Gumla in connection with Gumla Mahila P.S. Case No.05 of 2026 whereby and where under the proclamation under Section 82 of Cr.P.C. which corresponds to Section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been issued against the petitioner without fixing the time and place for appearance of the petitioner.

3. Learned counsel for the petitioner submits that it is a settled principle of law that the court which issues the proclamation under Section 82 of Cr.P.C., must mention the time and place for appearance of the accused in the order itself by which the proclamation under

Section 82 of Cr.P.C. is issued but the learned Special Judge, POCSO, Gumla having failed to mention the time and place for appearance of the petitioner, who is the accused person of the case, hence, the impugned order dated 08.04.2026 passed by the learned Special Judge, POCSO, Gumla in connection with Gumla Mahila P.S. Case No.05 of 2026 is not sustainable in law. Hence, it is submitted that the same be quashed and set aside.

4. Learned Addl. P. P. appearing for the State on the other hand vehemently opposes the prayer of the petitioner and submits that since it is expected that the accused person in respect of whom the process under Section 82 of Cr.P.C. is issued, is required to appear before the court concern after thirty (30) days of the the proclamation, hence, no illegality has been committed by the learned Special Judge, POCSO, Gumla. Hence, it is submitted that this Cr.M.P., 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 the 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 the proclamation under Section 82 of Cr.P.C. it must mention the time and place for appearance of the accused 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, Gumla 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, this Court has no hesitation in holding that the learned Special Judge, POCSO, Gumla has committed a grave 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. Therefore, this is a fit case where the impugned order dated 08.04.2026 passed by the learned Special Judge, POCSO, Gumla in connection with Gumla Mahila P.S. Case No.05 of 2026, be quashed and set aside.

6. Accordingly, the impugned order dated 08.04.2026 passed by the learned Special Judge, POCSO, Gumla in connection with Gumla Mahila P.S. Case No.05 of 2026, is quashed and set aside.

7. The learned Special Judge, POCSO, Gumla may pass a fresh order in accordance with law.

8. Accordingly, this Criminal Miscellaneous Petition, is allowed.

(Anil Kumar Choudhary, J.)