

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 1284 of 2026

Gautam Kumar Yadav, aged about 36 years, S/o Raman Yadav R/o
Gram-Gadi, P.O. & P.S. Tisri, District-Giridih. **Petitioner**

versus

The State of Jharkhand **Opp. Party**

For the Petitioner : Mr. Govind Ray Karan, Advocate

Mr. Nagmani Tiwari, Advocate

For the State :Mr. Anup Pawan Topno, Addl. 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 Bharatiya Nagarik Suraksha Sanhita, 2023 with the prayer to quash the order dated 15.01.2026 passed by the learned Additional Sessions Judge-II-cum Special Judge, Cyber Crime, Giridih in connection with cyber P.S. Case No. 11 of 2024 whereby and where under learned Additional Sessions Judge-II has issued proclamation under section 82 Cr.P.C.

3. The brief facts of the case is that on 15.01.2026 the learned Additional Sessions Judge-II, Cyber Crime, Giridih on receiving a requisition from the I.O. Cyber P.S. cum Inspector for issuing a proclamation under section 82 of Cr.P.C. against the accused persons, learned Additional District & Sessions Judge, Cyber Crime, Giridih without recording any satisfaction that the petitioner is absconding or concealing himself to evade his arrest which is *sine qua non* for issuing the proclamation u/s 82 of Cr.P.C., that too without fixing any time and place for appearance for the accused persons of the case in respect of whom the proclamation under section 82 of Cr.P.C. was issued; passed order for issuance of process under section 82 of the Code of Criminal Procedure.

4. It is submitted by the learned counsel for the petitioner that the impugned order is not sustainable in law. Hence, it is submitted that the orders dated 15.01.2026 passed by the learned Additional Sessions Judge-II cum- Special Judge, Cyber Crime, Giridih in connection with Cyber P.S. Case No. 11 of 2024; being not in

accordance with law, be quashed and set aside.

5. Learned Addl. P.P. appearing for the State, on the other hand, vehemently opposes the prayer for quashing the order dated 15.01.2026 passed by the learned Additional Sessions Judge-II cum-Special Judge, Cyber Crime, Giridih in connection with Cyber P.S. Case No. 11 of 2024 and submits that the learned Additional Sessions Judge, Cyber Crime, Giridih has ordered for issue of the proclamation under Section 82 of Cr.P.C. itself shows that there were sufficient materials available in the record for the learned Additional Sessions Judge-II Giridih, Cyber Crime, Giridih to be satisfied that the petitioner is absconding or concealing himself to evade his arrest. Hence, it is submitted that this Cr.M.P., being without any merit, be dismissed.

6. 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 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 Additional Sessions Judge-II cum- Special Judge, Cyber Crime, Giridih 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 Additional Sessions Judge-II cum- Special Judge, Cyber Crime, Giridih has committed a grave illegality by issuing the said proclamation under Section 82 of Cr.P.C. that too without complying 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 15.01.2026 be quashed and set aside.

7. Accordingly, the order dated 15.01.2026 passed by the learned Additional Sessions Judge-II cum- Special Judge, Cyber Crime, Giridih in connection with Cyber P.S. Case No. 11 of 2024, is quashed and set aside.
8. The learned Additional Sessions Judge-II cum- Special Judge, Cyber Crime, Giridih may pass a fresh order in accordance with law.
9. In the result, this Cr.M.P. stands allowed.

High Court of Jharkhand, Ranchi
Dated: 01.05.2026
AFR/MM
Uploaded on:-06/05/2026
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(Anil Kumar Choudhary, J.)